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1 IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
2 IN AND FOR MIAMI-DADE COUNTY FLORIDA
3 GENERAL JURISDICTION DIVISION

4 PATRICIA CRITTENDEN,)

5 Claimant,)

6 vs.)

7 PHILIP MORRIS INCORPORATED, et al.,)

8 Respondents.)

Case No.

00-3125CA02

9 -----)
10 MARISA L. MITCHELL,)

11 Claimant,)

12 vs.)

13 PHILIP MORRIS INCORPORATED, et al.,)

14 R.J. REYNOLDS TOBACCO COMPANY)

15 LORILLARD TOBACCO COMPANY, AND)

16 BROWN & WILLIAMSON TOBACCO)

17 CORPORATION, INDIVIDUALLY AND AS)

18 SUCCESSOR TO THE AMERICAN TOBACCO)

19 COMPANY,)

20 Respondents.)

Case No.

00-16059CA02

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52357 8564

Produced by RJRTC

in
HUMPHREY

1 TELEPHONE DEPOSITION OF JOLANDA JANCZEWSKI

2 JANUARY 23, 2001

3 WASHINGTON, D.C.

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) Case No.

) 00-16059CA02

21 -----)
22
23 The telephone deposition of JOLANDA

24 JANCZEWSKI was taken on January 23, 2001,

25 commencing at 11:10 a.m. at the offices of Shook,

produced by RJC/C

in
HUMPHREY

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Bacon, LLP, 600 14th Street, N.W., Washington,
D.C., before Deborah Rinaldo, Notary Public.

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Produced by RJRT

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(Appearances continued on the next page.)

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in
HARRIS

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I N D E X

WITNESS: JOLANDA JANCZEWSKI

EXAMINATION PAGE

BY MR. HUNTER 8

EXHIBITS DESCRIPTION PAGE

(No exhibits marked.)

QUESTIONS WITNESS WAS INSTRUCTED NOT TO ANSWER

(NONE.)

INFORMATION TO BE SUPPLIED

(NONE.)

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in
UNEMPLOYED

WASHINGTON, D.C.; TUESDAY, JANUARY 23, 2001;

11:10 A.M.

JOLANDA JANCZEWSKI,

having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. HUNTER:

Q. Could you tell us your name, please.

A. Jolanda Janczewski.

Q. And what is your business address?

A. 10335 Democracy Lane, Suite 202, in
Fairfax, Virginia, 22030.

Q. And what is your business or
occupation?

A. I am the president and co-owner of
Consolidated Safety Services, Incorporated.

Q. Okay. And do you have a partner in
that enterprise?

A. Yes, I do.

Q. And what's the respective
relationships in terms of ownership that you all
have?

A. I own 52 percent of the corporation

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1 and he owns the other 48.

2 Q. Okay. When did you begin to work on
3 the Patricia Crittenden matter first? When did
4 you first start doing something on this specific
5 case?

6 A. Probably November of 2000.

7 Q. Okay. Had you done anything having
8 to do with the flight attendant's lawsuit since
9 you had testified in the Broin case and then
10 November of 2000 when you got involved in the
11 Patricia Crittenden case?

12 A. Just occasional meetings or phone
13 conversations with Mr. Davidson.

14 Q. Okay. Would it be fair to say that
15 you first actively began to work on the matter
16 again in November?

17 A. Correct.

18 Q. All right. What have you done since
19 then?

20 A. I've reviewed documents, had meetings
21 with counsel and done some maybe additional
22 research or searching for documents.

23 Q. Okay. Tell me about meetings with
24 counsel. Tell me about each and every meeting you
25 had since November of 2000.

1 A. Well, I really can't remember each
2 and every meeting but generally they've been about
3 maybe some of the work we did for ASHRAE.

4 Q. Well, how many meetings have you had?

5 A. I couldn't remember. I'd have to
6 look back at my records.

7 Q. Do you have those available to you
8 today?

9 A. No.

10 Q. All right. Well, we'll have to go
11 with your recollection. Have you had meetings in
12 person?

13 A. Yes.

14 Q. And who have you met with besides
15 Mr. Davidson in person?

16 A. Bill Geraghty. Well, Bill, Neil.

17 Q. Let's start with Mr. Geraghty. How
18 many times have you met with him?

19 A. Three.

20 Q. Okay. And on those meetings with
21 Mr. Geraghty, who else was present?

22 A. Mr. Davidson, Neil and Lisa. I
23 forget Lisa's last name. I'm sorry. I'm drawing
24 a blank right now.

25 Q. When did those meetings occur?

1 A. I don't know. I have to look at my
2 calendar and I don't have my calendar with me.
3 There may have been a meeting or two in December
4 and a meeting or two in January.
5 Q. Okay. Forgive me. I forget what you
6 said to me. Did they take place up there or down
7 here?
8 A. I don't know. Where are you?
9 Q. Miami.
10 A. Okay. One meeting in Miami and the
11 remaining meetings were up here.
12 Q. Okay. The meeting in Miami, when did
13 that occur?
14 A. A couple weeks ago.
15 Q. Okay. And how long did you meet on
16 that occasion?
17 A. Maybe about four or five hours.
18 Q. All right. Did you help in
19 preparation of the language that was given in the
20 expert witness disclosure of yourself in the
21 Crittenden case?
22 A. Yes, I reviewed it.
23 Q. Okay. The meeting that you had here
24 in Miami, what did you do in that meeting for
25 those hours?

1 A. Went over some of my Reliance
2 materials, went through some of the depositions.
3 Just -- I was able to ask some questions about the
4 case. Nothing too specific.

5 Q. Have you read any depositions that
6 were taken in this particular case?

7 A. Yes, I have.

8 Q. What have you read?

9 A. Is this deposition for both cases?
10 I've read depositions of Marisa Mitchell and I've
11 read all the Crittenden depositions. I think all
12 the available Mitchell depositions as well.

13 Q. And why did you read those?

14 A. Well, so I have a better
15 understanding of what this case is about.

16 Q. Okay. Did you rely on those
17 depositions at all in formulating any expert
18 opinions?

19 A. Do you mean by reading those did it
20 change my opinion?

21 Q. No. Do you need to rely on anything
22 that these two flight attendants testified to
23 under oath in arriving at any expert opinions you
24 hold in this case?

25 A. No.

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in
HUMANITIES

1 Q. One of the opinions it says
2 here -- and I'm looking at the expert witness
3 disclosure, it says you will be offered as an
4 expert in the areas of indoor air quality and air
5 quality on U.S. carrier passenger aircraft
6 including the aircraft flown by plaintiff when she
7 was a flight attendant.

8 Do you know all of the airplanes that
9 Patricia Grittenden flew on?

10 A. When I read the depositions, I noted
11 the aircraft that were there and I noted that I
12 was familiar with all those aircraft but I
13 couldn't recall right now what those were.

14 Q. Okay. Then it goes on to say you
15 will compare the ventilation systems of various
16 indoor structures such as office buildings,
17 residences and other types of buildings to the
18 aircraft ventilation systems known as
19 environmental control systems.

20 Have you written anything down that would
21 relate to your comparison of those ventilation
22 systems?

23 A. No.

24 Q. What are you going to testify to
25 about the comparison?

1 A. Different types of ventilation rates,
2 different air flow patterns, different filtration
3 techniques that are used.

4 Q. And what is the comparison?

5 A. Between -- could you make that
6 question a little more clear.

7 Q. It says you will compare the
8 ventilation systems of various indoor structures
9 such as office buildings, residences and other
10 types of buildings to aircraft ventilation
11 systems.

12 So let's start with, how do you compare
13 the ventilation system of a residence to the
14 aircraft ventilation system of an aircraft?

15 A. Well, there are several different
16 components you can compare, for instance,
17 filtration being one of them. And aircraft -- for
18 those aircraft that recirculate a percentage of
19 the air within the cabin, an aircraft will usually
20 use a higher efficiency filter upwards of about
21 99.9 percent efficient. Some aircraft, maybe
22 older aircraft use 70 or 80 percent efficient
23 filters. Typical office buildings will probably
24 use about 30, 35 percent efficient filters. And
25 residences like your house, maybe a 10 or 15

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1 percent efficient filter.

2 Your house tends to circulate a hundred
3 percent of the air. An office building would
4 maybe circulate upwards of 80, 90 percent. And in
5 an aircraft, usually less than 50 percent is
6 recirculated.

7 An aircraft provides more air changes,
8 room changes per hour than an office building. An
9 office building certainly provides more room
10 changes per hour than a home.

11 So those are some of the differences
12 between all the systems.

13 Q. Okay. It says here that you will
14 testify regarding the testimony of flight
15 attendants over the last 15 years concerning cabin
16 air quality. What does that refer to?

17 A. I've had an opportunity to listen to
18 flight attendants testify in several venues, before
19 the Congress, U.S. Congress, most recently in
20 front of the National Academy of Sciences
21 committee that's looking at this issue, before the
22 ASHRAE.

23 Q. Let me just slow you down. The
24 National Academy of Sciences, you listened to
25 testimony of flight attendants?

1 A. Correct.

2 Q. And when did that occur?

3 A. Right after the first of the year.
4 This year in January.

5 Q. And where did that occur?

6 A. In Washington, D.C.

7 Q. Is there a transcript of that?

8 A. I don't know.

9 Q. And what did you glean from that
10 testimony?

11 A. That the flight attendants are
12 complaining about indoor air quality problems on
13 the aircraft and several types of illnesses and
14 symptoms, both chronic and acute, problems having
15 to do with aircraft cabin air quality.

16 Q. Okay. How many did you listen to?

17 A. I listened to the union
18 representative representing the American flight
19 attendants.

20 Q. How about other than the union
21 representative, did you listen to any flight
22 attendants?

23 A. I talked to a couple flight
24 attendants while I was there.

25 Q. But I'm talking about testimony.

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in
TEMPERARY

1 It's got in here that you're going to testify
2 regarding testimony of flight attendants. So
3 that's what I'm interested in right now.

4 A. Okay. Would you ask your question
5 again then.

6 Q. You told me that at the National
7 Academy of Sciences event, whatever it was, in
8 January of this year, you listened to flight
9 attendants testify about indoor air quality. And
10 then I asked you how many and then you told me,
11 well, you listened to a union representative.

12 Did you listen to actual flight attendants
13 testify?

14 A. I assume that the union
15 representative and the union representative did
16 represent herself as testifying on behalf of the
17 flight attendants.

18 Q. Okay. Was she a flight attendant?

19 A. She was an industrial hygienist.

20 Q. Did you listen to any flight
21 attendants testify at this National Academy of
22 Sciences event?

23 A. I don't mean to sound argumentative
24 but she was representing the flight attendants
25 when she spoke.

1 Q. Okay. Just listen to my question.
2 Did you listen to any flight attendants give
3 testimony at this event?

4 A. No.

5 Q. Okay. Now, what other testimony of
6 flight attendants have you -- or what testimony of
7 flight attendants are you referring to in this
8 paragraph that says, Dr. Janczewski will further
9 testify regarding the testimony of flight
10 attendants over the last 15 years concerning cabin
11 air quality, other than this National Academy of
12 Sciences event?

13 A. I've listened to them testify before
14 hearings just this past summer where there were
15 hearings between the FAA and OSHA.

16 Q. Okay. And where did those hearings
17 occur?

18 A. At the Department of Transportation.

19 Q. And in what city?

20 A. Washington, D.C.

21 Q. Okay. And did you take notes?

22 A. No.

23 Q. Is there a transcript of that
24 proceeding?

25 A. There probably would be.

1 Q. And what did you glean from this
2 testimony?

3 A. That the flight attendants are having
4 problems with the aircraft cabin air quality and
5 they are experiencing a lot of health symptoms,
6 both acute and chronic health problems.

7 Q. And did you hear flight attendants
8 actually give testimony at this proceeding?

9 A. Yes.

10 Q. Okay. And how many?

11 A. There were probably three or four
12 that spoke at that hearing.

13 Q. What were you doing there?

14 A. I also gave testimony at that
15 hearing.

16 Q. Is there a report from this
17 proceeding?

18 A. You'd have to check with the
19 Department of Transportation. I don't know.

20 Q. You don't have it?

21 A. No.

22 Q. And what was your testimony about?

23 A. About the data that we've collected
24 on board aircraft.

25 Q. Do you remember who it was -- who the

Produced in Pursuant to E.O. 13526

1 flight attendants were who spoke?

2 A. No, I don't.

3 Q. What did they say specifically, as
4 you can recall?

5 A. Well, they actually addressed a few
6 issues. On the issue of air quality, they talked
7 about the health symptoms that were being
8 experienced by flight attendants.

9 Q. Okay. And what are they?

10 A. Upper respiratory problems, headache,
11 dizziness, neurological problems, shortness of
12 breath, hypoxia. That's all I can think of for
13 right now.

14 Q. Okay. Any union representatives?

15 A. I don't recall.

16 MR. GERAGHTY: I object to the form of the
17 question.

18 BY MR. HUNTER:

19 Q. And the data collection that you
20 referenced at this meeting was what?

21 A. I talked about the ASHRAE study that
22 we did and the ATA study.

23 Q. Do you have a presentation, a written
24 presentation that you made?

25 A. No.

1 Q. And what was -- did you reach a
2 conclusion?

3 MR. GERAGHTY: Objection to the form.

4 THE WITNESS: Did I reach a conclusion?

5 BY MR. HUNTER:

6 Q. You can answer.

7 A. I just presented the data and our
8 results from that data that we collected.

9 Q. And what data did you collect and
10 what were your results?

11 MR. GERAGHTY: Objection to the form.

12 You can answer.

13 THE WITNESS: Well, there are two studies
14 that we performed, one in 1994 for the Air
15 Transport Association and one more recently in
16 1998 for the American Society of Heating,
17 Refrigerating and Air-conditioning Engineers.

18 BY MR. HUNTER:

19 Q. Okay. And I have that study. What
20 you did is you just gave them a presentation of
21 the material?

22 A. Of the summary of the data, correct.

23 Q. Going back to the National Academy of
24 Sciences, who was the union representative?

25 A. I'm sorry, I can't remember her name.

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1 She's a new person on staff there. She's an
2 industrial hygienist and she was accompanied by
3 Chris Wodkowski.
4 Q. And what group did she represent?
5 A. The AFA. The Association of Flight
6 Attendants.
7 Q. Okay. Now, other than testimony
8 before Congress, the National Academy of Sciences
9 and the FAA/OSHA summer meeting, what other
10 testimony of flight attendants have you reviewed?
11 A. Well, they testified before the
12 ASHRAE TC-9.3 aviation subcommittee quite
13 frequently.
14 Q. Okay. Flight attendants did?
15 A. Yes, quite frequently.
16 Q. Okay. Other than that?
17 MR. GERAGHTY: Objection to the form. I'm
18 not sure I understand what you're asking, Steve.
19 BY MR. HUNTER:
20 Q. Okay. What other testimony have
21 you -- let me go back. Strike that.
22 You will testify regarding the testimony
23 of flight attendants over the last 15 years
24 concerning cabin air quality. And we've gone
25 through the testimony given to the U.S. Congress,

1 the National Academy of Sciences, the FAA/OSHA
2 summer meeting and now you've referenced testimony
3 that they gave to the ASHRAE TC-9 subcommittee.

4 And I'm asking what other testimony of
5 flight attendants over the last 15 years
6 concerning cabin air quality do you expect to
7 testify about?

8 A. Hold on. Right as you were talking,
9 I thought of another one, then I lost it.

10 One of the others is I spoke in conducting
11 a survey on behalf of the TC-9.3 subcommittee. I
12 conducted a phone survey with airline
13 representatives of 12 U.S. airlines and spoke to
14 them about flight attendant reports of health
15 problems or indoor air quality problems. And in
16 some of those cases, I spoke to the heads of
17 flight operations who were flight attendants now
18 in a management position.

19 Q. Okay. Do you have any notes that
20 refer to that phone survey?

21 A. No. No, not anymore.

22 Q. Okay. When did that occur?

23 A. 1994.

24 Q. All right. Any other testimony of
25 flight attendants?

1 A. This's all I can think of right now.

2 Q. All right. Now, it says here that
3 complaints made by flight attendants after the
4 smoking bans in 1988 and 1990 are the same kind of
5 complaints made by flight attendants including the
6 physical problems alleged by plaintiff before the
7 smoking bans went into effect and that the number
8 of complaints has increased since the smoking ban
9 in 1990.

10 What is your basis for that statement?

11 A. That I've discovered through the
12 testimony of the flight attendants in all those
13 venues that we've just discussed.

14 Q. You said it increased since 1990.
15 What does that mean?

16 A. It means we're getting more
17 complaints filed or lodged now than before the
18 smoking ban.

19 Q. Okay. And how do you determine that?

20 A. By listening to the testimony of the
21 flight attendants and through taking the survey
22 that I did in talking to the airline
23 representatives. In that particular case, I asked
24 them specifically, are you seeing more or less
25 complaints since the smoking ban. And in all

1 cases, I was told that more complaints are being
2 lodged since the smoking ban.

3 I also, in listening to the testimony at
4 these different venues, have noted that we are
5 beginning to get an increasing number of
6 complaints as time goes on.

7 Q. And what do you mean by increasing
8 number of complaints?

9 A. A number of complaints that is on the
10 rise.

11 Q. Is that because there are more flight
12 attendants now?

13 A. No. That means it's because there is
14 more reporting of incidents now. The complaints
15 are on the rise. There are a greater number of
16 them now than there were in past years.

17 Q. Other than just you saying that to
18 me, do you have anything that backs that up?

19 A. The survey that I --

20 MR. GERAGHTY: Objection to the form.

21 You can answer.

22 THE WITNESS: The survey that I conducted.

23 BY MR. HUNTER:

24 Q. You didn't have any notes from that?

25 A. I do not have my notes from that

1 anymore, no. That was many years ago.

2 Q. But other than you just telling me
3 that's what you heard, do you have anything that
4 backs up this statement that there is more
5 complaints now than there were prior to 1990?

6 MR. GERAGHTY: Objection to the form of
7 the question.

8 You can answer.

9 THE WITNESS: No. Based on my expertise,
10 and I've been in this particular industry for a
11 long time listening to these people for a long
12 time. I'm the expert in the middle of all of this
13 for a number of years. I can, with no doubt in my
14 mind, tell you that we have an increased number of
15 complaints that continues to be on the rise.

16 BY MR. HUNTER:

17 Q. Okay. How many flight attendants are
18 there at work right now in the United States?

19 A. I can't answer that question.

20 Q. How does it compare to how many
21 flight attendants were working in the year 1990?

22 A. I can't answer that question either.

23 Q. Then how can you tell me that there
24 is anything significant if there is more
25 complaints now than there were before? Maybe

1 there is more flight attendants flying.

2 MR. GERAGHTY: Objection to the form.

3 You can answer.

4 BY MR. HUNTER:

5 Q. Do you understand my question?

6 A. I'm not too sure I do.

7 Q. There is nothing scientific about
8 what you're telling me here; is that correct?

9 MR. GERAGHTY: Objection to the form.

10 BY MR. HUNTER:

11 Q. It's just your analysis of it based
12 on what you hear.

13 MR. GERAGHTY: Objection to the form.

14 You can answer.

15 THE WITNESS: It's my expert opinion based
16 on having been in this industry for a long time.

17 BY MR. HUNTER:

18 Q. Okay. But it doesn't have any
19 science to it. You don't have any statistics that
20 you can tell me that would support your opinion
21 that there is more complaints now than there were
22 before?

23 MR. GERAGHTY: Objection to the form.

24 THE WITNESS: Well, I am a scientist and
25 the way I gather my information is to do exactly

1 what I've done, ask questions, observe, listen,
2 kind of take a pulse on the industry.

3 So I would say that yeah, since that's
4 part of my scientific method anyway, to gather
5 that kind of background information, that's part
6 of what I do in my business.

7 BY MR. HUNTER:

8 Q. Did you take notes from this phone
9 survey and then just throw them out or do you ever
10 take any notes?

11 MR. GERAGHTY: Objection to the form.

12 THE WITNESS: I took notes for the survey
13 and then I prepared the slides for the
14 presentation. I no longer have those notes.
15 Typically, when I give a presentation, I speak
16 right from the slides. I don't use notes.

17 BY MR. HUNTER:

18 Q. Do you have these slides?

19 A. Yes. They are part of the minutes of
20 that ASHRAE meeting. They are published.

21 Q. And this will bear out the fact with
22 some scientific basis that there are more
23 complaints as of the date you made that
24 presentation than there were prior to 1990 from
25 flight attendants concerning air quality?

1 MR. GERAGHTY: Objection to the form.

2 You can answer.

3 THE WITNESS: I don't have those. I'd
4 have to look at those slid-s to see what they say.
5 But my recollection is that they probably do
6 discuss that there are more complaints now than
7 before. I don't remember.

8 BY MR. HUNTER:

9 Q. And that would be the ASHRAE -- which
10 ASHRAE proceeding was this presentation given to?

11 A. I'd have to look. 1995. I don't
12 remember. I'd have to look that up for you.

13 Q. Is that the only thing that you have
14 to support your expert opinion is these slides?

15 MR. GERAGHTY: Objection to the form.

16 You can answer.

17 THE WITNESS: That slide isn't the support
18 of my expert opinion. That slide is an
19 illustration of my expert opinion.

20 BY MR. HUNTER:

21 Q. Okay. Then I guess there is nothing
22 to really support your expert opinion.

23 MR. GERAGHTY: Objection to the form.

24 BY MR. HUNTER:

25 Q. There is no tangible thing of any

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in
HUNTER

1 type.

2 MR. GERAGHTY: Objection to the form.

3 THE WITNESS: Currently there is the

4 expertise in my head. There is the information

5 I've gathered in my head for years.

6 BY MR. HUNTER:

7 Q. Okay. Now, how much money did you

8 charge in connection with the Broin case in total?

9 A. I don't know in total. I think if

10 you look at my deposition from the Broin trial,

11 you'll have the amount of money up to that point

12 but I don't know what was charged to the client

13 after that point.

14 Q. Okay. Can you give me an estimate?

15 A. No.

16 Q. Why not?

17 A. Because that was a long time ago. I

18 couldn't remember what was charged to the client.

19 Q. Okay. How about since you've started

20 up again in November?

21 A. I don't know. I would have to also

22 talk to my accounting manager about that.

23 Q. Well, give me an estimate.

24 A. I wouldn't want to venture a guess.

25 Q. Just give me your best recollection

1 of the time you've personally spent on the case.

2 MR. GERAGHTY: Objection to the form.

3 Go ahead.

4 THE WITNESS: I can't do that. I don't
5 feel comfortable. I could be orders of magnitude
6 off. Like an attorney, we're a service business.
7 I fill out my timecard, it goes into the
8 accounting office and the bill goes out. So I
9 don't see those bills. And I don't see the
10 culmination of my timecard and other staff's that
11 may be working on it.

12 BY MR. HUNTER:

13 Q. Who else do you have working on it?

14 A. Mark Pierce of our staff. He's our
15 certified industrial hygienist.

16 Q. And what has Mark done?

17 A. I don't know. I'll have to look. He
18 may have done some research, attended some
19 meetings, done some preparation work in the
20 background.

21 Q. Anything that you've been made aware
22 of that he did?

23 A. Mark was with me at a meeting. I
24 don't know. I think he pulled out some background
25 material that we needed.

1 Q. On what?

2 A. On cabin air quality.

3 Q. Okay. Would that be published
4 literature?

5 A. Yes. It may be some of my Reliance
6 materials. If I need them, usually Mark's the one
7 to track them down for me.

8 Q. Now, your company, how much of your
9 company's income, say over the last year, has been
10 generated from the tobacco industry?

11 A. Over the last -- in the year 2000?

12 Q. Yeah.

13 A. I'd have to say it's so minute, it
14 would have to be .001 percent in the last year.

15 Q. Okay. And how about the year prior
16 to that?

17 A. Probably nothing. I don't know if we
18 even billed anything then. I'd have to talk to my
19 accounting manager. But my recollection is we
20 didn't do any work in '98.

21 Q. Okay. '99?

22 A. '99, that was where it would be
23 probably next to nothing.

24 Q. Okay. And then the year 2000 you
25 started to do something again and that would be

1 this case?

2 A. Yeah. Even then it's still a small
3 amount. I haven't been actively involved in this
4 issue since the Broin trial. And my company does,
5 you know, upwards of \$3 million of business a
6 year.

7 Q. What have you done with the ASHRAE
8 TC-9 committee or what air quality studies did you
9 do for them with the aviation subcommittee in
10 1999?

11 A. Prior to 1999 the ASHRAE -- the
12 TC-9.3 aviation subcommittee's research committee
13 sponsored a research project that was put out to
14 bid and we bid on it and we were awarded the
15 contract to conduct an air quality study and to
16 design sampling techniques and an on-board
17 questionnaire to be used simultaneous with
18 collecting air samples and also to develop a
19 bibliography of literature having to do with other
20 confounding factors that may be affecting aircraft
21 cabin occupant's health.

22 Q. Okay. And I have two years here in
23 this expert disclosure. I have 1994 and 1999. So
24 what did you do in 1999?

25 A. That was the ASHRAE study. It was

1 published in 1999. We actually conducted the
2 study during 1998 and published it in 1999.

3 Q. Okay. And then you submitted a bid
4 to ASHRAE for your company's work in connection
5 with that?

6 A. Correct.

7 Q. How much money did that involve?

8 A. \$80-some-thousand.

9 Q. How about in 1994?

10 A. 1994 was done for the Air Transport
11 Association.

12 Q. Okay. And how much money was
13 involved in that analysis?

14 A. I don't recall.

15 Q. Now, it says here that you may be
16 asked to comment on opinions expressed by other
17 witnesses. What does that mean?

18 A. I think pretty much what it says. I
19 might be asked.

20 Q. Who are they?

21 A. I don't know at this point.

22 Q. Well, have you reviewed any other
23 witness' testimony?

24 A. No.

25 Q. As a result of all of your studies

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in HUNTER

1 concerning air cabin aircraft or aircraft air
2 cabin air quality, do you find that the air
3 quality, say in the years 19 -- say, take, for
4 instance, 1989, have you been able to arrive at
5 any opinions as to whether there is anything wrong
6 with the air quality at that time?

7 A. In looking at the studies that were
8 done around that time, it does not appear from the
9 data that there was any contaminant level or
10 environmental parameter with the exception of
11 maybe low humidity that might be causing the
12 health effects that were reported. In general,
13 the air quality was relatively good.

14 Q. Okay. And would the same be true
15 today?

16 A. Yes.

17 Q. Are there standards that apply to the
18 air quality in airplanes today?

19 A. There are standards that are being
20 applied probably incorrectly. And there
21 are standards that are currently under development
22 by ASHRAE specifically for the aircraft cabin
23 environment.

24 Q. Okay. Which ones are in existence
25 that are being applied?

Produced by RLTC
in
HUNTER

1 A. In the absence of a
2 specific standard, what's been applied is
3 ASHRAE Standard 62 which is the general indoor air
4 quality standard for buildings.
5 Q. And you don't think that's
6 appropriate to use or it is?
7 A. No, I don't believe that it is.
8 Q. Okay. Now, does the air quality
9 comply with that standard?
10 MR. GERAGHTY: Objection to the form of
11 the question.
12 You can answer.
13 MR. HUNTER: Well, what's wrong with the
14 form?
15 MR. GERAGHTY: I think it's overbroad.
16 BY MR. HUNTER:
17 Q. Okay. You can answer.
18 A. Does it comply with what?
19 Q. ASHRAE 62.
20 A. Having to do with what? For
21 instance, the humidity is probably lower than what
22 ASHRAE 62 would recommend. Understand that
23 ASHRAE 62 is a comfort standard.
24 Q. Okay.
25 A. The humidity is lower, the carbon

1 dioxide levels are typically higher than ASHRAE 62
2 would recommend for comfort and the temperature
3 variations are probably greater than what ASHRAE
4 would recommend for comfort.
5 Q. Okay. Did you finish?
6 A. That's all I can recall at this
7 moment.
8 Q. Are there any safety standards that
9 apply to air cabin air quality today?
10 A. FAA has an ozone standard.
11 Q. Do the flights comply with
12 the standards?
13 A. Yes.
14 Q. Are there any violations of any
15 safety standard by anybody that promulgates
16 something that you think would apply, say today?
17 MR. GERAGHTY: Objection to the form.
18 You can answer.
19 THE WITNESS: I can't recall any
20 safety standards that are being exceeded.
21 BY MR. HUNTER:
22 Q. Not adhered to?
23 A. I can't recall at this minute, no.
24 Q. How about, say, in the year 1989? I
25 mean, I guess what I'm getting at: Is it your

1 analysis that, at least according to the published
2 standards that are out there, the air cabin
3 quality or the air cabin air quality is in
4 conformance with whatever standards might apply?

5 MR. GERAGHTY: Objection to the form.

6 You can answer.

7 THE WITNESS: I can't think of any that
8 have been exceeded or were exceeded at that time
9 with the exception of those things that we've
10 discussed, the 62 standard that we discussed, some
11 of the parameters that are listed in there.

12 (A recess was taken.)

13 BY MR. HUNTER:

14 Q. How are you compensated for the work
15 you do in this case? Is it by the hour?

16 A. By the hour.

17 Q. And what is your rate?

18 A. \$200 an hour.

19 Q. And other than -- what materials
20 specifically other than the depositions of Marisa
21 Mitchell and Patricia Crittenden have you reviewed
22 that is specific to the Crittenden case?

23 A. I think I saw just one page of the
24 complaint.

25 Q. Okay. Anything else?

1 A. No.

2 Q. I'm sorry. You may have answered and

3 I didn't hear you.

4 A. I'm sorry. I said no.

5 Q. Okay. Have you reviewed in the U.S.

6 National Academy of Sciences 1986 report on air

7 cabin air quality?

8 A. Yes.

9 Q. I'm looking at a letter to McGrane

10 and myself from Mr. Geraghty referencing your

11 deposition and it includes a list of the Reliance

12 materials. Do you have that list there, 1

13 through 13?

14 A. Yes, I do.

15 Q. And if you answered, I didn't hear

16 you.

17 A. Yes. Yes, I have the list right

18 here.

19 Q. Okay. Who put this list together?

20 A. Originally, I think I did for the

21 Broin case.

22 Q. Okay. It seems like it may have

23 things in here which were subsequent to that.

24 Look at number 12.

25 A. Yeah. No, I believe that was on the

1 list before.

2 Q. Okay. And these are the materials
3 that you're relying on in part to base your
4 opinion?

5 A. Yes.

6 Q. Okay. I don't have any further
7 questions.

8 Let me ask you this, other than -- let me
9 just look at this.

10 Am I correct that you don't have any
11 opinion specific to Patricia Crittenden?

12 MR. GERAGHTY: Objection to the form.

13 You can answer.

14 THE WITNESS: Just give me a moment
15 because I -- I need to look at her deposition.

16 Yes, there is one opinion I do have.
17 There was something that struck me in her
18 deposition. When she was asked if she would
19 return to flying if she was taken off of furlough,
20 her answer was that, no, she still wouldn't fly
21 because it was very well-known that the air
22 quality in the aircraft is bad anyway, which is
23 very much in line with the information I've been
24 able to gather over the years, that the flight
25 attendants believe that there is something in the

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air other than ETS that's causing their health complaints.

BY MR. HUNTER:

Q. And then your opinion as a scientist is that there is not; am I right?

MR. GERAGHTY: Objection to the form.

You can answer.

THE WITNESS: My opinion as a scientist is that there is something that is causing their health problems and that was not and is not ETS.

BY MR. HUNTER:

Q. What is it?

A. In my opinion, I think it's other things having to do with the nature of their job. I think it probably is mostly coming into contact with inanimate contaminated objects and people.

Whenever you're in contact with a diverse population, you're at risk of contracting all sorts of biological organisms which if they continue to insult your body and your body is under stress from the nature of your job, you begin to suppress your immune system and you become very susceptible to things like viruses, colds, those kinds of disorders which eventually lead to chronic conditions like bronchitis,

1 sinusitis, in some cases pneumonia, upper
2 respiratory irritations.

3 I think it's a combination of factors a
4 lot having to do with the nature of their job and
5 contact with the public. And contact specifically
6 with contaminated items that you touch during food
7 service. I think that's where the major problem
8 is coming from.

9 Q. And do you have any scientific basis
10 for that or is that just your impression?

11 A. My master's degree is in biohazard
12 sciences, so I actually have an expertise in
13 infection control. And that's where my opinion
14 comes from. I've done a lot of biological
15 surfacing sampling and infection control studies
16 through my career.

17 Q. Did any of the sampling on board
18 aircraft justify or back up your opinion?

19 A. No, what backs up my opinion is an
20 observation of the nature of their job. For
21 instance, I did a similar study when I worked for
22 the National Zoo when we had a number of keepers
23 in the monkey house become contaminated from what
24 was obviously a fecal organism from the monkeys.
25 And the only way I tracked it down, I didn't have

1 to take one single sample. I went in there and
2 observed exactly what those keepers did to
3 determine how they were getting contaminated and I
4 was able to solve the problem so we weren't having
5 intestinal parasites in our keeper population.
6 And you don't have to take one sample to figure
7 that out.

8 Q. All right. But is there any sampling
9 or any study that's been done by anybody that
10 would support your opinion that flight attendants
11 are subject to this risk of upper respiratory
12 disease as a result of their employment as flight
13 attendants?

14 MR. GERAGHTY: Objection to the form.

15 You can answer.

16 THE WITNESS: I'm unaware of any published
17 studies on the flight attendant population. There
18 are plenty of studies in the published literature
19 of the routes of infection and contamination from
20 biological organisms. There is plenty of
21 published literature on that.

22 BY MR. HUNTER:

23 Q. I thought we had agreed or that you
24 had testified that you thought that the air
25 quality in the airplanes was okay generally from

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in
HUNTER

1 the health standpoint for the people on the
2 airplane.

3 A. That's true.

4 MR. GERAGHTY: Objection to the form.

5 BY MR. HUNTER:

6 Q. And what you're telling me now is
7 it's not the air quality, it's the germs and
8 biological things on the objects that they handle?

9 A. Right. I think it's not floating in
10 the air, as put in layman's terms. It's not
11 floating in the air. It's a contact problem.

12 Q. What are the effects of environmental
13 tobacco smoke on flight attendants when they used
14 to allow smoking on long flights that flew
15 internationally?

16 MR. GERAGHTY: Objection to the form,
17 beyond the disclosure.

18 You can answer.

19 THE WITNESS: I don't think I can answer
20 that question. It's way too broad.

21 BY MR. HUNTER:

22 Q. Okay. What's so broad about it that
23 you can't answer?

24 A. What were the effects on flight
25 attendants? I don't know. I can't answer that

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question.

Q. And that's because in all your training in the expertise and studies you've done on airplanes, you don't really have an opinion on that subject?

MR. GERAGHTY: Objection to the form.

BY MR. HUNTER:

Q. Is that correct?

A. I haven't read anything about the effects of ETS on flight attendants.

Q. Okay. And you're not going to give any opinions on that?

A. Correct.

MR. HUNTER: All right. I don't have anything further.

MR. GERAGHTY: Okay. I guess we're done here. Thank you for your time, folks.

(Reading and signature not waived.)

(Whereupon, the proceedings at 12:06 p.m. were concluded.)

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DISTRICT OF COLUMBIA, to wit:

I, Deborah Rinaldo, before whom the foregoing deposition was taken, do hereby certify that the within-named witness personally appeared before me at the time and place herein set out, and after having been duly sworn by me, according to law, was examined by counsel.

I further certify that the examination was recorded stenographically by me and this transcript is a true record of the proceedings.

I further certify that I am not of counsel to any party, nor an employee of counsel, nor related to any party, nor in any way interested in the outcome of this action.

As witness my hand and notarial seal this
29th day of January, 2000.

Deborah Rinaldo

Deborah Rinaldo

Notary Public

MY COMMISSION EXPIRES: 01/01/06

1
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3 CERTIFICATE OF CERTIFIED COPY
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7 I, *Rebecca Thomas-Coleman*, an employee of
8 *Atkinson-Baker, Inc.*, Court Reporters,
9 certify that the foregoing pages 1 through 48,
10 constitute a true and correct copy of the original
11 deposition of JOLANDA JANCZEWSKI taken on
12 January 23, 2001.

13 I declare under penalty of perjury under the
14 laws of the State of California that the foregoing
15 is true and correct.
16

17 Dated this 30th day of January, 2001.
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REBECCA THOMAS-COLEMAN

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in
HUMPHREY

CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

JOLANDA JANCZEWSKI

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this _____ day of _____, 2001, and executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

MY COMMISSION EXPIRES:

1 WITNESS: JOLANDA JANCZEWSKI

2 DATE: TUESDAY, JANUARY 23, 2001

3 CASE: PATRICIA CRITTENDEN v. PHILIP MORRIS, INC.,
4 et al.

5
6 Please note any errors and the corrections thereof
7 on this errata sheet. Do not write on the
8 transcript. The Rules require a reason for any
9 change or correction. It may be general, such as
10 "To correct stenographic error," or "To clarify
11 the record," or "To conform with the facts."

12 PAGE LINE CORRECTION REASON FOR CHANGE
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YOLANDA JANCZEWSKI

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR DADE
COUNTY, FLORIDA
CASE NO: 91-19738 CA (22)

NORMA R. BROIN, et al.,

Plaintiffs,

vs.

PHILIP MORRIS COMPANIES, INC., et al.,

Defendants.

66 West Flagler Street
2nd Floor
Miami, Florida
May 10, 1997
10:00 a.m.

DEPOSITION

OF
DR. YOLANDA JANCZEWSKI
Taken before DEBORAH MULLER, a Registered
Professional Reporter, Certified Court
Reporter, Notary Public for the State of Florida
Large, pursuant to Notice of Filing
Deposition filed in the above cause

KLEIN, BURY & ASSOCIATES, INC.

APPEARANCES:

STANLEY M. ROSENBLATT, P.A.
BY: MARY MARGARET SCHNEIDER, ESQUIRE,
on behalf of the Plaintiff
COLL. DAVIDSON, ESQUIRE, et al.
BY: BARRY R. DAVIDSON, ESQUIRE, via telephone,
on behalf of the Defendant Philip Morris.
SHOON BARRY & BARRY, P.A.
BY: NICOLA HESKEP, ESQUIRE, via telephone,
on behalf of the Defendant Philip Morris &
Lorillard.

Witness I.N.B.E.X.
DR. YOLANDA JANCZEWSKI 3,79 79

KLEIN, BURY & ASSOCIATES, INC.

MS. SCHNEIDER: Mary Margaret here,
everyone else is by phone, including the
witness. A notary will swear the witness in
where she is.

MR. DAVIDSON: Barry Davidson, and we're
here with the deponent, Dr. Yolanda Janczewski,
and our court reporter here in Virginia. Jeanie
Brown.

MS. SCHNEIDER: We have a court reporter
here who will be transcribing.

Are we ready to begin?

MR. DAVIDSON: Yes.

MS. BROWN: Are you ready for me to swear
the witness?

MS. SCHNEIDER: Yes.

THEREUPON...

DR. YOLANDA JANCZEWSKI
was called as a witness by the Plaintiffs and, having
first been duly sworn, was examined and testified as
follows:

DIRECT EXAMINATION

BY MS. SCHNEIDER:

Q. Please state your name and address.

A. Yolanda Janczewski. [DELETED]

KLEIN, BURY & ASSOCIATES, INC.

Q. When were you first contacted in regard to
the Broin case?

A. I believe it was in March of this year,
mid March.

Q. Who contacted you?

A. Barry Davidson.

Q. How was it that he contacted you?

A. He left a message in my voice mail while I
was out of town and then I returned his call a couple
days later.

Q. Did you ever find out how he got your name
or how it was that he contacted you?

A. I don't remember. I think it was he was
just familiar with ASHREA, the American Society of
Heating and Refrigeration Engineer Activity, and got
my name through that.

Q. Do you know who gave him your name through
that?

A. I don't recall.

Q. What is your position with that group?

A. With ASHREA or the company I work for?

Q. The group you said Barry Davidson would
have contacted you through.

A. I'm on the technical committee known as
TC 9.3 Aviation Subcommittee. I've been a member of
KLEIN, BURY & ASSOCIATES, INC.

that committee since its inception as a voting member
of the committee.

Q. What were you asked to do?

A. I was asked to re-review, because I'm
pretty familiar with all of them, the past studies done
on indoor air quality, take a look at the air quality
in airline cabins and provide an opinion and to also
provide information on ASHREA TC 9.3 Aviation
Subcommittee's activities.

Q. When were you actually sent documents, if
ever, relating to the case?

A. Within the last month I received
documents. Most of the documents that I needed I
already had in my possession.

Q. What were the documents you were sent?

A. There were some technical publications as
well as a copy of the complaint.

Q. What technical publications were you sent?

A. We have a list here that's been prepared
of the technical publications that I reviewed.
There are two lists, one of which are the
publications I already had and one of which were the
ones supplied to me by counsel.

MS. SCHNEIDER: Barry, have you provided
us with both of those, because I just have one
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list?

MR. DAVIDSON: Well, no, we did not, but
here is the way that we did this.

We gave you the master list, just so you
understand what she is saying, because we
anticipated this question. We gave you the
master list, which is all inclusive. That is
everything she has referred to.

She simply prepared a separate list
indicating, with respect to the master list,
which publication she already had in her own
library here at her company.

MS. SCHNEIDER: Okay.

MR. DAVIDSON: And that list has eighteen
entries as opposed to the master list we gave
you yesterday, which should have 36 entries;
correct?

MS. SCHNEIDER: No. What I have has
eighteen entries.

THE WITNESS: It says at the top of it --

MR. DAVIDSON: Janczewski references.

MS. SCHNEIDER: Correct, then there is a
list of eighteen items, is what I have.

MR. DAVIDSON: Why don't you ask her. In
the meantime, I'll get this other list faxed to
KLEIN, BURY & ASSOCIATES, INC.

YOLANDA JANCZEWSKI

you.

THE WITNESS: What you have, Barry, is the list of those which are already here in our own library.

MR. DAVIDSON: What is your fax number?

MS. SCHNEIDER: 305-381-8818.

MR. DAVIDSON: I'm sorry, 381-8818?

MS. SCHNEIDER: That's correct.

MR. DAVIDSON: Are you clear on what I am faxing you, which is a copy of a list which includes everything on the list you have plus additional items which we provided to Dr. Janczewski?

MS. SCHNEIDER: Yes, yes.

MR. DAVIDSON: I've got it.

MS. SCHNEIDER: Do you want to take a short break or is there somebody there that can do it for you?

MS. HESKEFT: Nicola Heskeft, point of clarification, on the two lists, Janczewski references, on the material Yolanda indicated she was relying upon to give her opinion.

MR. DAVIDSON: I see. Okay.

MS. HESKEFT: The list is a list of materials we provided to her on that second

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list. On the first list where the Janczewski references --

MR. DAVIDSON: Okay, I got it.

MS. HESKEFT: They already had copies of No. 1, 13, 14 and 15.

THE WITNESS: Okay.

MR. DAVIDSON: Thank you.

BY MS. SCHNEIDER:

Q. Let's move on and we'll come back to that.

Do you review anything in relationship to this case other than what I see on the two lists, once I have both of them?

A. I probably looked at other articles that actually ended up being irrelevant that I don't need to rely on.

Q. How many other articles did you review that were irrelevant?

A. Maybe a couple dozen. It's a difficult question to answer because we're currently doing an airline air cabin research project.

I'm in the middle of reviewing publications for that, as well, on a daily basis, and it happens to come up with -- like if I came up with something that was relative to this case, I would put it aside.

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So it's not so much actually reviewing them for this case, but I am for another project I have.

Q. What criteria did you have in mind when you were determining whether the articles applied to this case or not?

A. I'm strictly looking for those publications which would provide me with air quality measurements in an airline cabin.

Q. Air quality measurements of what?

A. Contaminant levels.

Q. After you were initially supplied the articles, which will be on the list once I have both lists, were you supplied any other documents other than the complaint that you mentioned earlier?

A. Let me see. With the exception of I reviewed the statement that was given to you all on what my testimony would be about, and I think that was about it.

MR. DAVIDSON: By the way, Mary Margaret, I realize now you did get both lists. I don't know why you don't have both lists, but I've just checked my file and I've got the fax head or the TTI information that you all received both lists.

KLEIN, BURY & ASSOCIATES, INC.

MS. SCHNEIDER: Well, the letter that I have only has one list.

MR. DAVIDSON: Whatever.

MS. SCHNEIDER: May 19, attached is a list of the publications Dr. Yolanda Janczewski will rely on during her deposition of May 20th, and then there are two pages, 1 through 18.

MR. DAVIDSON: Like I said, another copy is coming to you, but you did get one yesterday.

THE WITNESS: Let me go back and amend something. I was also supplied by counsel a complete copy of all the ASHREA TC 9.3 Aviation Subcommittee's meetings minutes, although since I'm a member of that committee I had or have all those in my possession, a couple of them could be missing, but they were kind enough to send me another complete copy to make sure I had everything and all the pages.

BY MS. SCHNEIDER:

Q. Are you relying on those minutes in formulating your opinions?

A. No.

Q. Have you read any depositions in the case prior to today?

A. No.

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Q. Are you aware of any testimony that has been taken?

A. Any depositions that were taken?

Q. Yes, that's testimony.

A. The only one I'm aware of is Jack Spangler from Harvard.

Q. What do you know about the deposition?

A. I just know he was deposed. I don't know anything about the context of it.

Q. Is he a friend of yours?

A. No. Well, he's a professional colleague. I do know him.

Q. Have you had any conversations with him about the case?

A. No.

Q. How did you become aware that his deposition was taken or he was deposed?

A. In conversation with counsel for this case, they mentioned in passing that Spangler was deposed, whatever it was, that they had said that Spangler was deposed last week.

I'm sorry, no, that's all. Spangler is the only one I know of.

Q. What conclusions have you reached in this case?

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A. The first is that the air in an aircraft cabin or actually the environment in an aircraft cabin is different from any other. It's very unique, so that it is impossible really to extrapolate data that is collected in other environments, such as buildings or homes, because we have such a unique environmental factor and structure of the cabin.

Also, measurements that had been taken two days on contaminants within aircraft cabins are well below what are acceptable or even recommended threshold limit values.

And then I guess the third thing would be that what we've seen in cabin air, as far as complaints associated with cabin air, have been consistent for the last several years, pre smoking band, post smoking band. The nature of the complaints haven't changed. The type of complaints haven't changed, and, actually, in the recent past, since the smoking bands, we've actually seen an increase in the number of complaints, which you know leads us to believe that it doesn't have anything to do with the contaminants in the air.

It's got to be relative to something else, having to do with something that is unique to the aircraft cabin; and, also, obviously, that the problem exists beyond environmental tobacco smoke because you

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see the complaints pre and post ban.

Q. What is the factual basis for the first conclusion you gave me that the air in aircraft cabins is different and unique and it's impossible to extrapolate to buildings and homes?

A. Well, for example, you've got a very high occupancy density which you don't have in any other kind of setting.

The number of people per square foot of space is greater than in any other environment you would see. The ventilation systems are unique. They are not like any home or any office building.

Both the design of the air flow, the quantity of air, the filtration systems that are used, are far different than what you would see in a building or a home.

The percent efficiency on the filtration systems is several times greater than what you would see in a building or a home. The nature of what people do in an occupied space is different.

They don't move around. They are sedentary, but also it's the type of environment they tend to bring on their own habits, whatever they carry on, whatever they are wearing, and you also have a number of environmental factors that are not seen on

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the ground, the altitude, the three dimensional motion, the levels of radiation. These things you don't see in an environment on the ground.

Q. What is the factual basis for your second conclusion, the measurements or constituents are below the threshold limit values.

A. Simply if you look at the studies done to date and you take the numbers and you compare them to whatever known standards we have for those contaminants, whether they are from governing bodies like the Occupational Safety and Health Administration or they are from professional sources, recommending sources like ASHREA, the American Society of Heating and Refrigeration Engineers, guidelines put out by the American Council of Governmental and Industrial Hygienists, you take any of these levels that have been set, what is acceptable so as not to pose a health risk to the occupants of the space, the numbers that we found, with the exception of carbon dioxide, are well below any threshold limit value that is set, and even carbon dioxide is significantly below any health threshold limits.

Q. Now are these limits that you are referring to specific for smoke?

A. There is no specific limit for smoke, and

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smoke is not by itself, so you can't set a limit for it.

It is a combination of particulates and gaseous based chemicals, but there are limits for the individual constituents, yes.

Q. And what individual constituents are you referring to?

A. Well, let's say the particulate matter, the nicotine, it depends on the source of smoke, but if it is environmental, tobacco, there is formaldehyde, there are limits for those individual chemicals.

Q. Are there any other specific things that you can mention to me or can tell me about other than nicotine and formaldehyde that would be the individual consequences of the smoke?

A. I am not a scientist, so I am not really prepared to answer that question, but according to the best published studies, probably several, all of which are produced from other sources in the environment, as well.

Q. Are you telling me that there are levels which are prescribed by different agencies and different groups for all of those hundreds of chemicals?

A. I would guess, yeah, they probably all

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have threshold limit values, but in the levels we see in EPS, they don't even approach anything that is usually measurable. We can't take it out with sophisticated equipment we have.

Q. These values you are talking about, when were they first established?

A. They'd been established over a period of years. They were not established at one time. Once that the Occupational Safety and Health Administration threshold limit values under the Administrative Procedures Act a number of years before they established what that particular value is after a series of toxicological studies, animal studies, in vitro studies, they determined what is the ratios for exposure over an eight hour period of time for the average worker.

So over many, many years, OSHA has developed the exposure limits for hundreds and hundreds of chemicals. A.C.G.I.A. has done the same thing over a number of years.

Q. Who was the first one to have the level limits or whatever you want to call them for smoking constituents, and what is the year?

A. Nobody says this is the smoking constituent level. You have to look at it if you are

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going to sample for nicotine, for instance, and you have X amount in the air, you can go to OSHA standards and pull out the level for nicotine, what is an acceptable exposure level for nicotine over an eight-hour period of time.

Q. My question is, we'll take nicotine, for example, when was that limit first established?

A. I don't know.

Q. And you are not able to tell me the first year that any other constituent of smoke was established, whether it was OSHA or any other agency?

A. No, no. I mean, I can go back in the record probably and look, but I have no idea when each one was established.

Q. Going back to the items that you mentioned as the factual basis for your first opinion, are there articles or regulations or anything that you are relying upon to tell me that there is a higher oxygen density the number of people per square foot, etcetera, that you mentioned?

A. I didn't say higher oxygen density. I said higher occupancy density.

Q. Where are you getting that information?

A. I think one of the probably biggest bodies that recognizes formally is ASHREA, itself, the

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American Society of Heating and Refrigeration Engineers, that group of experts. They represent actually worldwide, not just American.

A ventilation engineer can design the system for occupied environments. They put together a number of guidelines, what they call standards. They actually are not enforceable by law, but they are often adopted by building codes and other regulatory bodies.

Anyway, they put together standards having to do with the design of ventilation systems for occupied spaces.

Now over the last few years, because of the heightened tension on cabin air quality and because of what appears to be the increased number of complaints that are happening on board aircrafts by the occupants, ASHREA recognized that it is a unique environment that cannot therefore be included under building guidelines and recommendations for ventilation systems for buildings.

So they established a separate committee under the transportation committee called the Aviation Subcommittee. That is, therefore, a group of professionals recognizing collectively that the aircraft cabin environment is very, very unique and needs to be treated separately when talking about

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ventilation and air quality.

Q. So that is not your opinion? You are just saying what has been said by ASHREA? Is that what you are telling me with respect to the occupant density, the number of people, the ventilation system, et cetera, as far as the basis?

A. Obviously, it is my opinion. That is why I gave it to you. The question was, what did I use as a foundation to form that opinion, and it is also the opinion of other professionals, recognized professionals.

Q. You are telling me that one of these groups or professionals is ASHREA; is that correct?

A. One of the groups is ASHREA; correct.

Q. What is the factual basis for the third thing that you mentioned, that the complaints are consistent for several years and since the ban there is an increase in complaints?

A. Well, I've been in this issue for quite a long time. The testimony that I gave before Congress on this issue really came to light because the flight attendants testified quite a bit about the type of complaints they were having.

Q. So that's part of it. Being on the ASHREA TC 2.3 subcommittee I've been listening to flight

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attendant Union representatives, flight attendants themselves, and listening to their complaints, and when these complaints stem from what year they happen, what these complaints are now, what these complaints were in the past, and then in the process of being on that committee, one of the things I did do was to give a presentation a couple of years ago on the history of the complaints and I was asked by the committee to go back and do some research on it, at which time I called the industrial hygienists, the safety officers, the flight service managers, whoever I could get hold of, each of an individual nature, U.S. airlines, to talk about what are the nature of the complaints you see, what did you see in the past, what do you see now, what type of complaints, how many complaints; got as much data as I could from them and put that presentation together.

If you read the introduction to most of the published studies, most authors will say there have been an increased number of complaints or complaints have been filed for a number of years, so all of those things led me to the conclusion that I have.

Q. Did you talk to any of the flight attendants who were class representatives in this case?

A. Not that I know of. I don't recognize any

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of the names.

Q. Did you talk to any of the members of the class?

A. I don't know. I don't know who are the members of the class. It's my -- according to you, there are like 60,000.

I talk to flight attendants all the time. I even have friends that are flight attendants. I talk to flight attendants on planes. I talk to them in the Air Force because I am in this business. I take as much opportunity as I can to talk to them and understand what they are going through.

I talk to them at the ASHREA meetings. So chances are few of them might be one of those 60,000.

Q. Have you talked to any of them about this suit?

A. No, absolutely not.

Q. Why not?

A. That's not my job. You know, I've been brought on this case to render a decision. I mean, a professional opinion on the data and on the quality of aircraft cabin, not my personal conversations with flight attendants.

Q. But you've told me that you talked to

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flight attendants, many, many flight attendants about air quality and you are telling me that you have never talked or discussed with any of them about this case? That's never come up?

A. No, never.

In fact, you know, when I work on a case I make it a habit not to discuss those cases with anybody.

Q. But you told me you were just contacted in this case in March. That was only a couple of months ago; correct?

A. Correct.

Q. Then you told me that you worked in this industry for many, many years and you talked with flight attendants very, very often and you wouldn't have been involved with the case prior to March of 1997, but still you didn't talk with any of the flight attendants about this case and what their complaints were and that type of thing?

A. You mean since March of '97?

Q. Prior to March of '97.

A. I talked to nobody outside of the members of the firm about my firm and counsel involved about this case. Those people are located in this office as well as the attorneys I've been working with. I just

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don't discuss my case work with anybody.

Q. I understand that, but my question was about the time period before that. You said that you are in the industry. You talk with flight attendants very often, and before March you were not involved in this case and you, before March, had not discussed with any flight attendants this case or their complaints, that type of thing; correct?

A. Before March I never talked with any flight attendants about this case. I've got to admit I didn't know about this case until I was called in March. I had never heard of it.

Q. Now in preparing for this talk that you gave on complaints over the years, how many flight attendants did you speak to?

A. I didn't speak to any flight attendants. I spoke to the flight attendants union representative and I spoke to the health and safety professionals or in flight service managers of the airlines.

Q. Any reason why you didn't speak with any flight attendants?

A. I needed reports. I needed numbers. I needed percentages.

I didn't need individual complaints. We had enough anecdotal stories from individual flight

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attendants.

What I needed were volumes of numbers, any summary data that any of those bodies would have, so for the flight attendants I spoke strictly with the young representative on this issue.

Q. Okay. Now you said you had enough anecdotal data.

What do you mean by that?

A. We had, the committee had enough, had plenty of anecdotal data. It was obvious from the flight attendants that spoke in front of the committee and conversation we had and testimony before Congress that there are all sorts of stories out there which were interesting, but we couldn't tell from them whether or not we had any trend or what the volume of complaints were or most importantly what kinds of trends there were. Were there the same kinds of complaints? Were there groups of complaints? And the only place you can get that information was to get some source that might be collecting that kind of data, flight attendants' unions as opposed to individual flight attendants.

It does us no good when one person tells us a story about what happened to them. In order for us to try to correct the problem, we need to think how

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many people, when, what type of complaints, the frequency of it.
Q. Give me a few examples of these, quote, stories that you are telling me about.
A. The anecdotal, I remember in the congressional testimony one of the flight attendants had said that there was jet fuel spilled on the tar mat underneath the aircraft which was then picked up by the air system and brought into the aircraft and caused a bunch of flight attendants and the passengers to get nauseous and sick.
I don't remember whether they evacuated or not, which is a really good story, some really good evidence there, but it doesn't help us to just know one isolated incident.
I mean, how many times has this happened? How has it happened? Has it never happened again? Is it something that can be easily avoided, if so, we can take care of it that way without having to revamp the whole system.
Those were the type of anecdotal evidence we were getting, but whenever we look at any type of indoor aircraft quality, it doesn't help us unless we have got good trend data that we can try to narrow down or pinpoint what causes it and we can rarely pinpoint

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the cause from one person.
Q. Did you have any of your so-called anecdotal data or sorts of stories which were about secondhand smoke?
A. From the data that I collected, no. As a matter of fact, that is an interesting point.
When I had called all of the in flight service managers, from the hygienists, safety professionals, even the flight attendants, when I spoke with Chris Witowski about it, no one mentioned environmental smoke.
Q. What I am asking you about is this anecdotal data that you had plenty of that you didn't feel was useful. You needed trends and information that would give you data and that's why you went to the union representatives.
My question is, did you have any anecdotal data or stories about complaints which related to secondhand smoke and if so, I would like for you to give me a couple of examples of what you had.
A. No, I can't recall any. It's been so long since the Congressional testimony, but something tells me that during that testimony I might have heard them talk about exposure, but that would be the only time I

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ever heard that anecdotal evidence.
Q. Now you mentioned Chris Witowski's name, the person that you spoke with when you were doing your surveyor research.
Can you give me the names of anyone else that you spoke with?
A. No, I couldn't. I would have to go way back in my files and find who my contacts were for each of the airlines.
Q. And for which airlines did you speak to a representative?
A. I think it's been every major U.S. airline. I think I talked to United, TWA, Delta, Alaska Air.
You see, this was part of the TC 9.3 subcommittee, and all those people, representatives from those airlines, as well as Chris Witowski, was at the table.
What I was assigned to do was to put this talk together and they all agreed they would help me and provide me whatever information they had.
Q. How many people from each airline did you speak to?
A. Sometimes only one, if I could hit the right person. Sometimes it would be two. Maybe it

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would be an industrial hygienist as well as an in flight service manager.
In one case, I don't remember what airline it was, I think I actually talked to the marketing department.
They had done a marketing survey and one of the questions happened to be about air quality, so they were kind enough to give me numbers off of that.
Q. Now you said you gave a talk on the complaints.
Have you published any articles on your research that you did with respect to your preparation for your talk or speaking?
A. No.
Q. Have you published anything in the area of passive smoke or secondhand smoke in airline cabins?
A. No. The study that we conducted for the ATA, it's in the possession of the ATA, so we are not at liberty to publish it.
Q. Have you done any research specifically on flight attendants and secondhand smoke other than the research that you did in preparation of your talk?
If you answered my question, I couldn't hear you.
A. I said no. I'm sorry.

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Q. If you cough it doesn't come through if you say something right after it.
Does cigarette smoking cause cancer?
A. According to the warnings on the side of the pack it may cause cancer, is what it says. I believe that's what it says.
Q. Does smoking cause any disease other than cancer?
A. I think it says it causes lung cancer or heart disease, emphysema.
Q. Let me ask you this: On a package of cigarettes it says: Surgeon General's warning, smoking causes lung cancer, heart disease and emphysema. Is that a true or false statement?
A. I would think it was true if it is mandated to be put on the pack.
I'm not a medical doctor.
Q. Do you smoke?
A. Yes, I do.
Q. How long have you smoked?
A. Boy, on and off for maybe nineteen years.
Q. How old are you?
A. 40.
Q. How much do you smoke?
A. Less than a half a pack a day. I'm sorry.

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less than a pack a day.
Q. Has that been the amount that you have smoked on and off for the past nineteen years?
A. Yeah. Sometimes more, sometimes less. I think when I was younger and probably in college I probably smoked more.
Q. How much more?
A. Whoever is speaking, you'll need to speak up. You are not coming through.
A. Sorry.
Q. No, I heard a male voice.
A. That was Barry asking me if I wanted more coffee.
Q. What is the maximum you've smoked?
A. When I was in college, you know, maybe if I was studying at night I could probably smoke more than a pack a day.
Q. How much more than a pack a day?
A. I couldn't tell you, a pack, pack and a half.
Q. Did you ever quit smoking and then go back to smoking?
A. Yes, I did.
Q. When did you quit each time?
A. I quit when I got out of college. That

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was the only time I quit.

Q. Why did you quit?

A. I don't know. I guess I wasn't really interested in it. I had gotten out of school. I tended to smoke more when I was studying.

Q. Why is that?

A. I have no idea.

Q. How long did you quit?

A. For three years.

Q. Why did you start again?

A. Went back to school.

Q. Again, whoever is speaking we'll need for you to speak up.

MR. DAVIDSON: I just said that the coffee cups make a terrible ring on the table. I don't know why.

THE WITNESS: Oh, you can't hurt it.

BY MRS. SCHNEIDER:

Q. Did you have any difficulty quitting when you quit after college?

A. No, not at all.

Q. Have you ever tried to quit again?

A. No, I mean, I've gone for days at a time and not had cigarettes. I don't know if you call that trying to quit.

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Q. Have you ever tried to reduce the amount of cigarettes you smoke?

A. I don't think actively, although I do at times. Sometimes I won't smoke all day.

Q. Did you ever take a course of use any products to assist you in quitting?

A. I tried the nicotine patches when they first came out. My brother, who is a physician, had prescribed them for me to see what they were like. I think I used them for two days and had terrible nightmares.

Q. What is your brother's name?

A. What is my brother's name?

A. Yes.

A. Mark.

Q. And his last name?

A. Same, Janczewski.

Q. What kind of a physician is he?

A. He's in the Air Force. He's a family practitioner and Board certified in family practice and he's now getting Board certified in aerospace medicine.

Q. Have you had any conversations with him about this case?

A. No.

Q. Has he recommended you stop smoking to you?

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you?

A. No.

Q. Why did he give you the nicotine patches?

A. I told him I wanted to try them out.

Q. Why did you want to try them out?

A. I don't know, to see whether or not -- I don't know, to see if I would quit on them.

Q. Do you have any other brothers or sisters?

A. I have a younger sister and Mark is my older brother.

Q. Does your younger sister smoke?

A. No. She used to be an occasional smoker, but she doesn't smoke anymore.

Q. What about your parents? Do they smoke or have they been smokers?

A. My father was a smoker.

Q. My mother has never smoked.

Q. You how much did your father smoke?

A. I really couldn't tell you. Maybe I'd judge a pack a day.

Q. What brand do you smoke?

A. Ultra Light.

Q. Who are they made by?

A. R.J. Reynolds.

Q. What brand did your father smoke?

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A. I think the last brand he smoked that I remember was Parliament.

Q. Have you ever done any other work for a tobacco company?

A. Yeah.

Q. What other work have you done for tobacco companies?

A. We've done some work for the A. J. Reynolds tobacco company.

Q. When you say "we," who are you referring to?

A. The firm, Consolidated Safety Services, Reynolds.

Q. What other work have you done for R.J. Reynolds?

A. Well, it sort of varies, but the general nature of it is consulting in indoor air quality issues. It's like if they need legal advice, I hire a lawyer.

If they need accounting advice, I hire an accountant. If I find indoor air quality issues, they hire our expertise.

Q. Tell me what kind of indoor quality issues you've worked on for R.J. Reynolds.

A. In the beginning, in earlier work we did, we did a lot of data interpretation for them, helping KLEIN, BURY & ASSOCIATES, INC.

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their scientists and their people to understand what is indoor air quality, where the problems were occurring, what contaminants are about, how ventilation systems work, and then later it was working with them and other industries in trying or actually working with them in trying to come up with methods for designing better ventilation systems for removing any ETP constituents from an area, so they could publish things on how to be a better smoking lounge, for instance.

Q. When did you first do work for R.J. Reynolds, what year?

A. Hold on, let me think, '94, '95.

Q. And the data interpretation that you would do, whose data was it you were interpreting?

A. It was the outside researchers or maybe government studies.

Q. Did that include the EPA reports?

A. You know, by the time EPA's report came out, we didn't do too much. They had pretty good in-house staff of expertise at that point to plow through that report and interpret it for them, so we didn't do anything for them on that.

Q. Have you ever been given free cigarettes by R.J. Reynolds?

A. Not that I can remember, no.

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They don't even give their employees free cigarettes.

Q. How do you know that?

A. Because I have asked them.

Q. What percentage of the work you've done over the past year since 1994, of your work, has been for R.J. Reynolds?

A. I'm sorry, would you repeat the beginning of that question?

Q. Sure. What percentage of your work since 1994 has been for R.J. Reynolds?

A. The firm, I'd say, you know, maybe between, probably around two, but certainly less than five percent of the entire revenue, the annual revenue of this company.

Q. And what about yours? What percentage of your work has been for R.J. Reynolds, you, individually?

A. Same thing, maybe less than five percent of my time.

We are mostly a government contracting firm.

Q. Who, other than yourself, are the officers of your firm?

A. I have a partner. His name is Dennis KLEIN, BURY & ASSOCIATES, INC.

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 1 Lauchner. I own 51 percent of the firm. He owns the
 2 other 49.
 3 Q. How many other people work in the firm?
 4 A. At this particular time, I think it is 26.
 5 We've been at times as high as 42.
 6 Q. Why the drop in employees?
 7 A. About a year ago we sold off a division
 8 that we had that was based out of Pennsylvania.
 9 Q. What division was that?
 10 A. It's called the Testing and Certification
 11 Division. We did a type of containment testing, area
 12 testing, heavy filtration testing, which had most of
 13 the contracts with the major hospitals like John
 14 Hopkins and a lot of the big medical research centers
 15 to test and certify their operating rooms, their
 16 biological safety cabinets, their environmental control
 17 systems.
 18 Q. Has anyone other than yourself and Mr.
 19 Lauchner ever been an officer in the company?
 20 A. No.
 21 Q. Have you or any other members of your
 22 family who have been smokers ever developed any form of
 23 cancer or heart disease?
 24 A. My father had coronary artery disease.
 25 Q. Did he die from coronary artery disease?
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 1 A. He died from a number of complications.
 2 He had a heart attack subsequently
 3 followed by a stroke, followed by kidney failure, and I
 4 believe he actually died from dehydration and
 5 starvation in the hospital.
 6 Q. Did your father ever attempt to quit
 7 smoking?
 8 A. The only time I ever saw him quit was
 9 after he had his stroke.
 10 Q. Did he ever try to quit before that?
 11 A. I don't know if he did.
 12 Q. What about your sister? Has she ever
 13 tried to quit smoking?
 14 A. She doesn't smoke anymore.
 15 Q. When did she stop smoking?
 16 A. A little over a year ago.
 17 Q. Why did she quit?
 18 A. I don't know.
 19 Q. Did you ever ask her?
 20 A. No.
 21 Q. Did you ever have any conversations with
 22 her about quitting smoking?
 23 A. No.
 24 Q. Did your sister ever try to quit more than
 25 once?
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 1 A. My sister was an occasional smoker, one of
 2 those people who smoke maybe a couple of cigarettes a
 3 week and not for several weeks and maybe she'd smoke a
 4 pack a day for a couple of days and maybe not smoke, so
 5 I don't know what quitting or not quitting -- there
 6 were periods when she didn't smoke for months. There
 7 were periods of time she was smoking every day.
 8 She was just one of those people that
 9 could start or stop or just do it occasionally.
 10 Q. Do you have any smoking related illness?
 11 A. Do I?
 12 Q. Yes.
 13 A. No.
 14 Q. I notice you've been coughing a lot
 15 throughout the deposition.
 16 Q. Do you have a cold?
 17 A. I seem to have a sinus infection, the
 18 first one in my life, but I will be going to see my
 19 brother this afternoon.
 20 Q. Do you have any children?
 21 A. No, I do not.
 22 Q. Is smoking addictive?
 23 A. I don't know.
 24 Q. Is nicotine addictive?
 25 A. I don't know.
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 1 Q. Have you ever known anyone who wanted to
 2 quit smoking but was unable to do so?
 3 A. Good question. No, no. Everybody I know
 4 that wanted to quit, quit.
 5 Q. So is it your belief that any smoker,
 6 irrespective of how many years they smoked and how
 7 heavy a smoker they are, can quit cold turkey if they
 8 simply make up their mind to do so?
 9 A. I think so, because I have friends who
 10 were incredibly heavy smokers for a number of years and
 11 I've been very proud that they have just been able to
 12 quit cold turkey, people I thought would never quit.
 13 Q. Why were you proud they were able to quit
 14 cold turkey?
 15 A. Stopping any habit, even if biting your
 16 nails, is a very difficult thing to do.
 17 You know, if you set your mind to it, it
 18 goes to show that that is what you want to do. You
 19 certainly can do it.
 20 Q. Does secondhand smoke cause lung cancer or
 21 any other disease?
 22 A. I don't have an opinion on that simply
 23 because I haven't seen it supported either way.
 24 Q. What signs are you referring to?
 25 A. I haven't seen any good signs that support
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 1 it in either direction.
 2 Q. Have you read any literature on the issue?
 3 A. Certainly, yes.
 4 Q. What literature have you read?
 5 A. I read the EPA report. I've read the
 6 studies of the EPA report. I've read the Congressional
 7 research report. I've read a recent report, actually
 8 recent publication, by Chris Coggins, Board certified
 9 toxicologist, R.J. Reynolds. He did the first animal
 10 exposure studies.
 11 Q. And this literature that you are
 12 mentioning, is that something that you just happened
 13 upon or have you been supplied with it or how did you
 14 get the information to read?
 15 A. Well, it's the nature of our work. We do
 16 safety and health work here so we have publications
 17 coming in the door every day. So I run across it, you
 18 know, just reading professionally.
 19 Q. You will agree that as a practical matter,
 20 the tobacco industry must replace quitting and dying
 21 smokers with young smokers; right?
 22 A. Is that a question?
 23 Q. Yes.
 24 MR. DAVIDSON: Do you agree -- we couldn't
 25 bear you very well.
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 1 BY MS. SCHNEIDER:
 2 Q. I'll ask the question again.
 3 You will agree that as a practical matter
 4 the tobacco industry must replace quitting and dying
 5 smokers with young smokers; right?
 6 A. I have no opinion on that.
 7 Q. Why is that?
 8 A. I haven't given it any thought. It's not
 9 something I have an opinion on or care to have an
 10 opinion on.
 11 Q. Well, you are in a business; correct?
 12 A. Right, but I'm not in marketing. That's
 13 not what I do.
 14 Q. But you have to replace your clients when
 15 you no longer have a particular client; correct?
 16 A. I do.
 17 Q. Right. So the same would be true for the
 18 tobacco industry; right?
 19 A. Yeah, but your question isn't whether or
 20 not to replace clients. It is the nature in which they
 21 replace their clients.
 22 That would be like asking, you know, yeah,
 23 we all replace our clients when we lose other clients,
 24 but how we do it, I don't have an opinion on how the
 25 tobacco industry does it. It is not my business.
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YOLANDA JANCZEWSKI

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Q. You will agree, will you not, that much of the tobacco advertising and much of the gear and merchandising is directed toward the youth market?
A. No, I don't agree with that.
Q. Why not?
A. Because I know a lot of children of friends of mine, some of which of my friends smoke, and I have never seen any of those children attracted to any of those ads or any of the merchandise.
Q. Your friends who smoke, do their children smoke?
A. No, they do not. In fact, their children receive quite an education in school about hazards associated with smoking. I've never seen any of them start to smoke.
Q. Do you know any young individuals who smoke?
A. No.
Q. Did the Joe Camel ads appeal to youngsters?
A. I'm sorry. How did you phrase that question? Do they...
Q. I will repeat the question.
Q. Do the Joe Camel ads appeal to youngsters?
A. I don't know.
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Q. What do you know about the Council for Tobacco Research?
A. Nothing, really. I read something about them in the complaint.
Q. So you've never heard of them before reading about them in the complaint?
A. Yeah, I heard of them over the years that they were an independent research council, tied, I think, to the industry, itself, but then that's all I know.
Q. Where did you get that information from?
A. I have no idea.
Q. I would have learned that somewhere along the years, but I've never dealt with them. I don't really know them. I haven't looked at any work they've done.
Q. Have you or your company or anyone you've ever done work for, done work for the Council for Tobacco Research?
A. No.
Q. What does a frank statement to cigarette smokers mean to you?
A. I'm sorry. Repeat that.
Q. What does a frank statement to cigarette smokers mean to you?
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Q. What does a frank statement -- I don't understand the question.
Q. So it doesn't mean anything to you, frank statement to cigarette smokers?
A. No, never heard of it.
Q. Have you ever written any articles or letters to the editor about the subject of smoking and health?
A. No.
Q. You would never recommend smoking to anybody, would you?
A. You know, if I talk to children I recommend they should not start.
Q. Why is that?
A. It's an expensive habit.
Q. You have never known, I take it, a doctor who recommended to a patient that they take up smoking?
A. No.
Q. You will agree, would you not, that in terms of the number of Americans who quit smoking in the last 20 years or so, that the vast majority of them have quit smoking because they became convinced that smoking was unhealthy?
A. I don't know, but I suppose that to be the truth.
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Q. Have you read the expert disclosure about you?
A. Expert disclosure?
MR. DAVIDSON: The statement ---
THE WITNESS: Yes, that was sent to me.
BY MS. SCHNEIDER:
Q. Do you agree with it?
A. Yes.
MR. DAVIDSON: I'm handing her a copy.
BY MS. SCHNEIDER:
Q. You mentioned to me that you had looked at that earlier, correct?
A. Yes.
Q. Do you agree with the expert designation?
A. Yes.
Q. Of the expert witness?
A. Yes.
Q. You are not a physician?
A. No, I am not.
MR. DAVIDSON: Let's take a short break.
MS. SCHNEIDER: Sure.
(Thereupon, a short recess was had.)
MS. SCHNEIDER: Everyone is ready?
MR. DAVIDSON: Yes.
BY MS. SCHNEIDER:
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Q. This is Mary Margaret. I'm back.
Your witness disclosure says that you may comment upon the opinions expressed by other witnesses. What other witnesses are we talking about?
A. At this point I would think perhaps it might be Dr. Spangler.
Q. And you've told me that you have not read his deposition?
A. I have not.
Q. Do you know what his opinions are?
A. Some of them, yeah, published studies. I listened to him testify. I talked to him quite a bit, had dinner with him once.
Q. Do you have any comments that you are going to be making on Dr. Spangler's testimony or what comments will you be making?
A. I don't know if I'm going to comment on his testimony. I guess we'll have to wait and see what his testimony is.
Q. Well, the disclosure says Dr. Janczewski may also be asked to comment upon the opinions expressed by other witnesses.
So I'm asking you as you sit here today, do you have any opinions or any comments on the opinions and expressed by Dr. Spangler as you know his
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Q. What does a frank statement -- I don't understand the question.
Q. So it doesn't mean anything to you, frank statement to cigarette smokers?
A. No, never heard of it.
Q. Have you ever written any articles or letters to the editor about the subject of smoking and health?
A. No.
Q. You would never recommend smoking to anybody, would you?
A. You know, if I talk to children I recommend they should not start.
Q. Why is that?
A. It's an expensive habit.
Q. You have never known, I take it, a doctor who recommended to a patient that they take up smoking?
A. No.
Q. You will agree, would you not, that in terms of the number of Americans who quit smoking in the last 20 years or so, that the vast majority of them have quit smoking because they became convinced that smoking was unhealthy?
A. I don't know, but I suppose that to be the truth.
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 1 Q. Ever work for any flight attendants
 2 unions?
 3 A. No.
 4 Q. What percentage of your work is for
 5 private companies?
 6 MR. DAVIDSON: At what point in time?
 7 THE WITNESS: Yeah, it's getting bigger.
 8 MS. SCHNEIDER: Okay.
 9 MR. DAVIDSON: Like today.
 10 BY MS. SCHNEIDER:
 11 Q. How long has your company been in
 12 business?
 13 A. Since 1988.
 14 Q. So over the years, we'll start with 1988,
 15 what percentage of your business was for private
 16 industry?
 17 A. 1988, probably -- to 1988, we had two
 18 clients, the Justice Department -- so 50/50. We had
 19 the Justice Department and we just worked for a labor
 20 union. Those were the two, first two projects.
 21 Q. What labor union was that?
 22 A. The American Federation of Governmental
 23 Employees.
 24 Q. How has the percentage of work you've done
 25 for private companies changed since 1988?
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 1 A. A number of companies, I'd say, were
 2 probably 60 percent government. I could be a little
 3 off, 40 percent private on a revenue basis with
 4 probably 90 percent revenue coming from the Federal
 5 Government.
 6 Q. What percentage of your work was for
 7 private industry in 1994?
 8 A. Probably less than 20 percent, maybe 15,
 9 20 percent.
 10 Q. How much money did your company make on
 11 the work that it did for R.J. Reynolds in '94, '95?
 12 A. I don't know. I'd have to check.
 13 Q. Can't even give me an estimate?
 14 A. No, I couldn't at all. I could be way
 15 off.
 16 Q. But you still have that information that
 17 you'd be able to obtain?
 18 A. Yeah, we might. A lot of our old
 19 accounting records we get rid of. I don't know how far
 20 back our accounting storage files go.
 21 Q. You can't tell me if it's 100,000, 200,000
 22 300,000?
 23 MR. DAVIDSON: We'll be happy to ask her
 24 to check her files and provide you the figures.
 25 BY MS. SCHNEIDER:
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 1 Q. I would like for you to answer my
 2 question.
 3 A. No, I couldn't tell you.
 4 Q. You would agree that the public health
 5 professionals have the responsibility to safeguard the
 6 public health and to protect the public from health
 7 hazards, correct?
 8 A. Correct.
 9 Q. Do you agree or disagree with the Surgeon
 10 General and the EPA's conclusions about secondhand
 11 smoke?
 12 A. I question the EPA's conclusions.
 13 Q. Do you agree or disagree with the surgeon
 14 general and the EPA reports on smoking?
 15 MR. DAVIDSON: Which reports are you
 16 talking about when you refer to the Surgeon
 17 General and his EPA on direct smoking?
 18 MS. SCHNEIDER: Do you not understand my
 19 question?
 20 MR. DAVIDSON: I don't.
 21 THE WITNESS: I don't, either.
 22 MS. SCHNEIDER: Which, if you don't
 23 understand my question, you can certainly tell
 24 me that.
 25 MR. DAVIDSON: I just did.
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 1 THE WITNESS: I don't understand your
 2 question.
 3 MS. SCHNEIDER: Mr. Davidson, I don't
 4 think you are the witness. I'm not here to
 5 ask ---
 6 MR. DAVIDSON: The question is she does
 7 not, Mary Margaret. That was my point.
 8 MS. SCHNEIDER: I think you can object to
 9 the form.
 10 MR. DAVIDSON: I'm not objecting to the
 11 form. I'm telling you I don't understand the
 12 question, just as she did.
 13 Go ahead and rephrase the question.
 14 BY MS. SCHNEIDER:
 15 Q. Sure. Do you agree or disagree with the
 16 Surgeon General and the EPA reports as they relate to
 17 smoking?
 18 A. I don't understand which EPA report you
 19 are talking about.
 20 Q. The reports that say smoking causes
 21 disease.
 22 A. I'm not aware of a report by the EPA about
 23 active smoking.
 24 Q. What about the Surgeon General? Answer
 25 that part of the question.
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 1 A. I would agree on the Surgeon General's
 2 report on the nature of it, yeah.
 3 Q. Why has smoking been banned in government
 4 buildings?
 5 A. Because the -- again, in government
 6 buildings ---
 7 Q. Yes, the Department of Defense, Postal
 8 Service facilities?
 9 A. I guess there are various reasons. The
 10 heads of the agencies made those decisions.
 11 Q. You are not familiar with the reasons why?
 12 A. No, I mean, I've never seen any written
 13 decisions as to why they were made.
 14 Q. Have you been involved in any studies
 15 relating to whether to ban or not ban smoking in
 16 government buildings such as the Department of Defense,
 17 the Postal Service, and the hundreds of city and county
 18 buildings where smoking has been banned?
 19 A. Have I ever been involved in any studies
 20 to determine whether or not it should be banned?
 21 Q. Yes, or anything relating to whether the
 22 ban was going to take place in government buildings or
 23 any government building?
 24 A. Yeah, I've done work related to trying to
 25 determine how to improve the air quality in buildings,
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 1 some of which has involved considering smoking bans.
 2 Q. What did you recommend?
 3 A. I recommended improvement of the
 4 ventilation system to handle all indoor air
 5 contaminants and I recommend that all businesses should
 6 have some sort of smoking policy.
 7 Q. Did you ever recommend banning smoking or
 8 reducing smoking in any way?
 9 A. I don't make those kinds of
 10 recommendations. That's for a business or facility to
 11 decide by themselves, but I always recommend that you
 12 must have some sort of smoking policy, whatever that
 13 policy may be for your business.
 14 Q. I take it you would agree that removing
 15 smoking from any building would improve the air
 16 quality?
 17 A. Not necessarily, not in all cases.
 18 Q. Why not?
 19 A. Because all the studies have shown that
 20 problems related to environmental tobacco smoke are
 21 less than three percent of the problem, which is
 22 negligible in a lot of buildings. Most of the
 23 buildings we've done work in where we have air quality
 24 problems, if you get rid of less than three percent of
 25 the problem and do nothing to improve the ventilation
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YOLANDA JANCZEWSKI

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1 system, you are doing nothing to improve the quality of
2 the air because you are not doing anything about the
3 other 97 percent of the problem.
4 Let me just revise an answer I gave you.
5 If I recommend to a client to ban smoking,
6 it's because it is required by law to do so.
7 Q. So you have recommended that smoking be
8 banned?
9 A. I cannot recall in any instance where I
10 have, because I would imagine it's the law required and
11 it was also banned.
12 Q. And why does the law require that smoking
13 be banned in certain buildings?
14 A. I don't know. In most cases it was part
15 of indoor air quality legislation.
16 Q. In your C.V. you indicate that you
17 provided testimony for agency rule making.
18 What agency are you referring to?
19 A. The Occupational Safety and Health
20 Administration.
21 Q. Have you provided any testimony with
22 respect to smoking of smoke?
23 A. Not specifically on smoking. I provided
24 testimony on indoor air quality in general, which takes
25 into account smoking, also.
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1 Q. But yet smoking was not your focus? Is
2 that correct?
3 A. That's correct.
4 Q. And you also say in your C.V. that you've
5 conducted a variety of on site investigations in the
6 occupational areas, including indoor air pollution and
7 diagnosis of sick buildings.
8 What does that mean in layman's terms and
9 what have you done in that area?
10 A. Well, I'm a professional in the safety and
11 health of staff persons. For instance, at the
12 Smithsonian or Frederick Cancer Research Facility, it
13 was my job to respond to complaints, indoor air quality
14 complaints, track down the source of the problem and
15 figure out how to reduce the exposures of eliminate
16 them.
17 It could be anything from general building
18 problems to specific contaminants in industrial areas
19 or maybe in laboratories.
20 Q. Give me some examples of the contaminants
21 you worked with.
22 A. You name it, biological contaminants,
23 chemical contaminants. Fort Dietrich, that is where
24 they do high contaminant research on deadly viruses. I
25 would go in there and help design the systems for those
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1 laboratories.
2 It could be as easy as I remember one case
3 at the Smithsonian, where we had terrible complaints in
4 the accounting office. We finally tracked down the
5 nature of the complaint to be a lack of humidity,
6 provided humidifiers, and yet on the other end of the
7 Smithsonian we had problems where we had extreme mold
8 growth because of too much humidity in a particular
9 building, so we took care of those problems.
10 Q. What was the name of the project you
11 mentioned in your C.V. where you evaluated or the
12 project evaluated aircraft cabin air?
13 A. That was done for the Air Transport
14 Association. We conducted on board 35 aircraft, I
15 believe, 35 aircraft flight segments looking for
16 contaminant levels.
17 Q. Did you or someone publish a report on
18 that?
19 A. There was a report released as part of a
20 press conference, which reported all of the data.
21 Q. There is no written report? There was
22 just a press conference? Is that correct?
23 A. Yes, it is a written report.
24 Where is the report written?
25 A. I'm sorry, where is it written?
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1 Q. Right. You said that there was a press
2 conference, and the information was given at a press
3 conference and then I asked you if there was a written
4 report where it was published somewhere and you said
5 yes.
6 Where was it published?
7 MR. DAVIDSON: You didn't ask published.
8 You only asked if there was a written report.
9 She told you there was a written report.
10 BY MS. SCHNEIDER:
11 Q. Who has the written report, if that is
12 what you are telling me?
13 A. Who has it?
14 Q. Yes.
15 A. There are hundreds of people who have a
16 copy of that report.
17 Q. Is it something that is published? Is it
18 available to the public or is it something that you
19 have and hundreds of other people have, but the public
20 doesn't have?
21 A. Anybody can get a copy of it, Air
22 Transport Association.
23 Q. What is the title of the report?
24 A. Airline Cabin Air Quality Study.
25 Is that report listed on either of the
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1 references listed or lists that we have, the two lists
2 that we have for you?
3 A. Yes, it is.
4 Q. What number is it?
5 A. Three.
6 Q. It's No. 3 on the list of 18?
7 A. Yes.
8 Q. What is the list of 18 references which is
9 entitled Janczewski References with 18 of them on it?
10 MR. DAVIDSON: You mean Janczewski
11 References is at the top and then there is a
12 list of 18 articles? The question is what are
13 those 18 articles?
14 THE WITNESS: Those are the ones I am
15 going to rely on for my testimony.
16 BY MS. SCHNEIDER:
17 Q. Then we have another list, which has 36
18 items listed on it, and the title is Materials Provided
19 to Dr. Janczewski.
20 What are those 36 items?
21 A. They are the materials provided to me.
22 Q. Who typed up these two lists?
23 A. Counsel did.
24 Q. How did you communicate which documents
25 you were relying upon?
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1 A. We sat down and went through document by
2 document and listed them.
3 Q. When did you do that?
4 A. We finished up last week.
5 Q. Where did you meet to do that?
6 A. Here in my office.
7 Q. How many meetings have you had with
8 counsel?
9 A. Four.
10 Q. Where did each meeting take place?
11 A. Three here and one in Miami.
12 Q. Who was present for each meeting?
13 A. I don't remember who was present for the
14 first meeting except for Barry Davidson, Marty, I don't
15 recall the attorneys.
16 There were two other attorneys there on
17 the second meeting. There was Barry Davidson and Walt
18 Cofer, and the third meeting, it was Barry Davidson
19 Walt Cofer and Nicola Heskeft, and the fourth meeting
20 was Nicola Heskeft, Barry Davidson, myself.
21 Q. How long was each meeting?
22 A. Usually about two hours.
23 Q. What was the purpose of each meeting?
24 A. To discuss my findings, to discuss which
25 materials I was going to use for the basis of my
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testimony, to talk about my opinions.

Q. Where was the meeting in Miami?

A. Mr. Davidson's office.

Q. How long did you stay in Miami?

A. Got in late one night and left the next

early evening.

Q. When was the meeting in Miami?

A. When?

Q. Yes, when?

A. Earlier this month, I believe it was May

5th.

Q. What was Program Resources, Inc. that is

listed on your C.V.?

A. Yes.

Q. What is it?

A. A private contractor that runs the largest

non-defense contract in the Federal Government.

Q. What did you do for them?

A. I was the chief biological safety officer

and generalized safety specialist for the National

Cancer Research Institute up in Fort Detrick,

Maryland.

Q. How long were you with them?

A. I don't recall. What is it, two years?

Q. Who was your superior or supervisor of

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Program Resources, Inc.?

A. Dr. Eric Sanderson.

Q. Why did you leave Program Resources, Inc.?

A. Started my own company.

Q. At the Smithsonian Institution in 1987 you

have that your responsibilities included budgeting and

staff planning, program development for radiation

protection.

Q. What was the radiation protection that you

were involved with?

A. The Smithsonian Institution is not a

museum. That's a very small percentage of what they

do.

Q. They are a research institution. Because

of that they have a number of laboratories that do

radio-isotopes.

Q. As well, they have a number of exhibit

pieces that require NRC licensing, as well.

Q. It is my job to be sure that all

laboratory licenses were up-to-date and that proper

protection was provided for anybody using those

substances.

Q. Did you do any work for any tobacco

company at Program Resources, Inc.?

A. No.

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Q. Have you done any work for any tobacco

company other than what you've mentioned earlier for

R.J. Reynolds and what you are doing in this case?

A. Have I done any work for any tobacco

companies?

Q. Any tobacco company or any tobacco related

company other than what you mentioned with respect to

R.J. Reynolds in '94 and what you are doing now in

present?

A. No, we haven't worked for any other

tobacco companies.

Q. Have you worked for any company that is

affiliated with the tobacco company?

A. Yeah. Years ago we did a little bit of

work for the Tobacco Institute.

Q. What is the Tobacco Institute?

A. Did you hear my question?

Q. I'm sorry. I didn't hear the question.

Q. What is the Tobacco Institute and what did

you do for them?

A. The Tobacco Institute is the group

representing all the tobacco companies. They are

located in Washington D.C.

Q. I did a lot of data interpretation for

them, reading studies and interpreting the scientific

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data for their issues staff.

Q. What did you interpret from the data?

A. Did you hear my question?

Q. No, I'm sorry, I didn't.

Q. What did you interpret from the data?

A. That's a broad question. We would make

scientific studies and translate them into layman's

terms for the issues analyst.

Q. I'm asking you what were the layman's

terms.

A. Anything, what measurements mean, what a

ventilation system is, what is air volume, what's the

constant volume of systems, parts per milligram, what

sort of data is significant, what is not, scientific

interpretation for them.

Q. Whose data were you interpreting?

A. It could be a number of people. It could

be people that submitted information to TI. It can be

papers that were published, papers that were presented

at conferences.

Q. You are not an epidemiologist or a

statistician, are you?

A. No, but I've had to take both epidemiology

and statistics as part of my graduate work.

Q. But if that is not your specialty, why

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would you be interpreting data for the Tobacco

Institute?

A. They say interpret epidemiological and

statistical data. They would interpret -- I'm sorry,

our expertise, the firm's expertise would be to

interpret measurement data at contaminant levels.

Q. Were you also looking at the results of

the interpretation by others of data?

A. I don't recall whether we did or not.

Q. When working for the Tobacco Institute or

R.J. Reynolds, did you disagree with any

interpretations of any data by anyone else?

A. I don't recall that, no.

Q. When did you do this work for the Tobacco

Institute?

A. It was in the late '80's, '89.

Q. How much was your company paid for the

work that you did?

A. I have no idea.

Q. You can't tell me whether it was 10,000,

20,000, 100,000? You can't give me any idea?

A. Is that correct?

Q. No, that was a long time ago.

Q. How did it come about that you did the

work for the Tobacco Institute?

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A. Boy, I don't remember.

Q. Are you finished?

A. Somebody working for a firm that we had

worked for, I think, recommended us, but I couldn't

remember who that was.

Q. How did it come about that you did the

work for R.J. Reynolds?

A. I was called by them several years ago and

I don't even remember who made the first phone call to

me; just called up and just started talking to me,

asking me about a speech I had given.

Q. Now you also say that at the Smithsonian

you were the officer for the chemical and radiological

waste disposal and dulsymmetry programs.

Q. What did that involve?

A. As far as waste disposal, I ran the

contract for removing hazardous wastes from all the

sites, and then the dulsymmetry program went along with

the radiation licenses.

Q. I made sure the radiation dulsymmetry

programs were required with the NRC regulation and

public health regulations.

Q. And what was involved with developing and

coordinating the NRC licensing application for all 28

Smithsonian Institution facilities?

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A. One of the problems was when I took over that program, that every one of the facilities had their own licenses, which is a big nightmare to keep track of, and so I managed to consolidate them, a lot of them, under one single license.

So that when we went for license renewal or review, we could control it under one program or one single authority.

Q. How did your duties differ at the Smithsonian when you were chief in the policy branch and chief in the safety division?

A. Safety things are split basically between industrial hygiene and safety.

Safety is pretty hard corp, hard hat safety, electrical safety, construction safety, and in the policy branch I got into more of the health issues.

Most of the regulation in the policy at the time were geared toward health related regulations, occupational health.

Q. Give me an example of what you mean by occupational health.

A. Is that the radiation?

A. OSHA's threshold limit values for chemical exposure levels, complying with EPA regulations for hazardous wastes, asbestos, PCB's, making sure that

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waste control permits were accurate, correct, that we didn't keep things stored over time that were hazardous wastes.

So even though there were some safety policy issues, there seemed to be more health.

My job at that point was to make sure that the institution was in compliance with all of the regulations.

Q. Have you testified in any other tobacco cases?

A. No.

Q. Do you plan on testifying in any other tobacco cases?

A. No, not that I know of.

Q. Has anyone discussed with you testifying in the Engle case?

A. If you gave an answer, I didn't hear it.

Q. Who prepared you for the deposition?

A. Mostly myself and some help from Mr. Davidson and that's it.

Q. How much time have you put into preparing for the deposition?

A. Typically for the deposition, just a few hours.

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Q. How many hours do you have in this case?

A. I don't know.

Q. Can you give me a rough estimate?

A. Maybe between 20 and 30.

Q. How much do you charge per hour?

A. \$175 except for deposition, which I charge differently.

Q. How are they charged?

A. I think it's \$200 an hour with a \$500 minimum.

Q. How much have you billed thus far?

A. Nothing.

Q. Nothing? Did you say nothing?

A. I have billed nothing.

Q. Have you or any entity you have ever been associated with, received money or funding or grants from any phase of the tobacco industry, including any tobacco company, the Council for Tobacco Research or the Center for Indoor Air Research, other than the things that you mentioned earlier with respect to R.J. Reynolds and the Tobacco Institute?

A. Could you just repeat the beginning of that question? Have I or --

Q. -- any entity you have ever been associated with received money or funding or grants

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from any phase of the tobacco industry?

A. No, except for those that you mentioned, no.

Q. Have you ever applied for a grant, whether it be you, individually, or an entity you were working for, for a grant to the Council for Tobacco Research or any other tobacco entity?

A. If you answered my question, I couldn't bear you.

A. I'm just thinking. Applied for any grants, writing grant applications in this business, not that I'm aware of.

Q. Do you solicit work from the tobacco companies?

A. I'm sorry. Repeat that.

Q. Do you solicit work from the tobacco companies?

A. No.

Q. Have you ever advertised for the testifying business?

A. Yes.

Q. Where and when have you done that?

A. I think the only time was in the Virginia Lawyers Weekly, probably around 1990, 1991.

Q. What did you advertise you would do?

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A. We're a licensed private investigation firm and we had a number of experts on staff that did a lot of accident investigation.

We still do, transportation, automobile accident, accident reconstruction.

Q. Does your company still do that?

A. Accident investigation, yes, and reconstruction.

Q. Are you involved in that aspect?

A. I have staff that is involved in that, the only thing I get involved in is I still handle all cases for the Justice Department.

If anybody has an accident on Federal Government property, I do accident analysis and expert witness testimony for them.

Q. So you testify for the Justice Department?

A. Yes.

Q. How often do you testify?

A. Used to be several times a year.

Q. When was the last time you testified before today?

A. Maybe a year ago.

Q. Do you testify in any cases other than the Justice Department's cases and the testimony, the type of testimony you are doing today?

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A. Could you repeat the beginning?

Q. Have you testified for anyone other than the Justice Department and the tobacco companies?

A. Yes.

Q. Who else have you testified for?

A. I have to check the record, but probably both plaintiff and defense. I've been a plaintiff and defense expert for accidents, grocery store, couple of restaurants.

I can't recall what else.

Q. What kinds of accidents do you testify in for the Justice Department?

A. Primarily slips and falls.

Q. What qualifies you to be an expert on slip and falls?

A. I've been doing it for a long time. I seem to be one of the few, if not the only person in the country, that has done a lot of work in evaluating walking surfaces.

Q. Is that an area of specialty for you?

A. It surreptitiously became one.

Q. When did you first develop the interest in evaluating walking surfaces?

A. It really wasn't an interest. I started doing it when I worked for the Smithsonian. It was

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part of my job.

Q. What kind of things did you do to evaluate walking surfaces or to be an expert in evaluating walking surfaces?

A. You know, to check walking surfaces, to be sure they are built according to code, and then to test the slip resistance or the coefficient of friction on the surface and then to see whether or not the coefficient of friction was acceptable for the intended purpose of the surface and whether or not it is adequate to protect the patrons or whoever that service is to be used by.

Q. I take it the testimony that you've given for grocery stores has also been in slip and fall cases?

A. Yeah, one of them was. A couple of them were. There was another case I was involved with somebody who amputated their finger on a shopping cart.

Q. You testified for the plaintiff or the defendant in that case?

A. The plaintiff.

Q. What percentage of your work is for the plaintiff and what percent for the defendant?

A. 50 percent.

Q. What percentage of your income comes from KLEIN, BURY & ASSOCIATES, INC.

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testifying?

A. Less than two percent, five percent, probably.

Q. My personal income to this company or the firm?

A. Your income. My income is probably less than one percent or half a percent.

Q. Where does the bulk of your income come from for the work that you do at Consolidated Safety Services?

A. From the Federal Government.

Q. For doing what, in general?

A. Primarily from the transportation safety area.

Q. What do you do for them?

A. The Federal Government, we're the nation's only and largest and only transportation safety inspection company.

Q. So you do inspections?

A. We do inspections for carriers. We do compliance audits for carriers. We do inspections of carrier equipment. We also have contracts with the Federal Highway Administration.

Q. We do special research projects and KLEIN, BURY & ASSOCIATES, INC.

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studies and development of training materials.

Q. When you use the word carrier, what are referring to?

A. Motor carrier.

Q. What is that in layman's terms? What are you talking about?

A. A motor carrier is anybody that is operating interstate or intrastate.

Q. We are talking about trucks, cars?

A. Inter or intrastate operating authority, trucks and buses, coaches, as they like to be called.

Q. When you go to a restaurant, do you sit in the smoking or non-smoking section?

A. Either/or.

Q. Have you reviewed any of the medical records on any of the flight attendants?

A. No.

Q. Have you reviewed any of their personnel records?

A. No.

Q. Have you ever been sued for negligence?

A. No.

Q. Have you ever testified for Mr. Davidson's firm or any of the other firms that are representing the tobacco companies?

A. No. KLEIN, BURY & ASSOCIATES, INC.

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A. I testified for Mr. Davidson's firm, but I don't know what the other firms are.

Q. Well, you've met with other attorneys, haven't you?

A. Oh, yeah, Chuck Hardy. No, I have not worked for them.

Q. Have you testified in South Florida in any other case?

A. No. I did a case on the Superdome in New Orleans.

Q. What did that involve?

A. I believe we were -- somebody slipped and fell. We were defense there.

Q. Near the Superdome or in the Superdome?

A. In the Superdome.

Q. What kind of surface did they slip on?

A. Stairway.

Q. Have you worked with any other law firms in South Florida or in Florida?

A. Let me give that some thought. No, I don't believe so.

Q. How long have you been serving as an expert witness?

A. Since 1986.

Q. What percentage of your time is devoted to KLEIN, BURY & ASSOCIATES, INC.

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reviewing cases and testifying?

A. Very little, you know, maybe a half of a percent.

Q. Do you know anyone socially or personally in Mr. Davidson's firm?

A. No.

Q. Same question as to the Shook, Hardy firm?

A. No.

Q. Do you agree that heavy cigarette smoking in a home is a source of significant indoor pollution?

A. I can't agree with that statement unless you qualify it from the factors.

Q. What factors need to be qualified?

A. What does heavy mean? What levels, contaminant levels, are you talking about? How big is the home? What is the ventilation system like?

Q. Well, assume it's the worst imaginable.

A. I'd say any contamination levels -- are you talking about having the windows closed in a one-room house with 50 people in it?

Q. We'll take that as an example.

A. Yeah, I think any contaminant in that environment would probably bother people.

Q. Do you agree that cigarette smoke is the most common indoor pollutant?

A. Yes. KLEIN, BURY & ASSOCIATES, INC.

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A. No.

Q. Why not?

A. There are plenty of other pollutants in the air brought by indoor contaminants.

Q. Give me some examples.

A. There is no evidence to say which part of those contaminants come from EPS. There are all sorts of volatile organic compounds, particulates, biologicals.

Q. Take a typical building in Florida. Probably your biggest contaminant happens to be biological and not chemical.

Q. But you do agree that tobacco smoke is a pollutant?

A. Yes, it can be.

Q. What do you mean "it can be"?

A. Well, if it's in the building, it can be.

Q. I mean, is it or isn't it? If it is present, is it a pollutant?

A. If it's present, yes, it can be.

Q. When is it not if it's present?

A. If it's effectively removed and diluted by ventilation and sometimes enhanced by filtration.

Q. Have you testified in any asbestos cases?

A. No.

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Q. Do you know anyone at R.J. Reynolds or the Tobacco Institute personally or socially?

A. No. All my contacts have been through business situations.

MS. SCHNEIDER: That's all the questions I have. Thank you.

MR. DAVIDSON: All right. Let's take a five-minute break.

I don't know that I'll have any cross, but let me just take a break.

(Short recess)

MR. DAVIDSON: I've just got a couple.

CROSS-EXAMINATION

BY MR. DAVIDSON:

Q. I just want to make sure, for the record, that Dr. Janczewski has covered any area in which she intends to offer opinions, and in that regard I would ask if she was asked to review the literature to determine whether there are any competent scientific studies regarding flight attendant health statistics either in general or in relation to exposure to EPS.

MS. SCHNEIDER: Objection to the form.

THE WITNESS: Yes, I have reviewed the literature.

BY MR. DAVIDSON:

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the deposition?

A. Yes, I have.

Q. How many have you had?

A. Two.

Q. Do you intend to testify live in this case?

A. Pardon?

Q. Do you intend to testify live in this case?

A. Yes.

MR. DAVIDSON: We do not waive. Whatever arrangements for the reporter in Miami, I am sure we will follow in the usual Miami practice.

If you will simply supply me with a copy, I will probably supply it to Dr. Janczewski and she'll review it and make any correction on an errata sheet and return it to me and I will provide a copy for counsel and a copy to the court.

(Thereupon, the deposition was concluded.)

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Q. Are you prepared to offer an opinion as to whether there are any scientifically competent studies?

A. Yes.

Q. You've indicated in direct that you will testify that cabin air is different and you cannot use some of building data in regard to cabin air issues.

Will your testimony in this area also include testimony in regard to comparison of ventilation systems in various environments?

A. Yes.

Q. Lastly, in regard to your review of EPS studies specific to airline cabins, are you going to comment on health versus comfort issues?

A. Yes.

MR. DAVIDSON: That's all I have.

RE-CROSS-EXAMINATION

BY MS. SCHNEIDER:

Q. What do you mean by you are going to comment on health versus comfort issues?

A. With regard to the studies that there are, health standards versus comfort standards, certain contaminants can cause discomfort and not health problems.

Q. How can you determine whether health problems are caused ---

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Sworn to and Subscribed
Before me on this ____ day
of May, 1997.

YOLANDA JANCZEWSKI

NOTARY

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A. The way we determine in this profession is to compare the contaminant exposure level to known threshold limit values.

Threshold limit values are set for at what point after an eight hour time wait, it's average exposure, you might see chronic or acute health effects.

Q. So you are looking at numbers? You are not looking at people, right?

A. Yes, we look at numbers, but those threshold limit values have been determined for exposure to people.

Q. Who determines these threshold values that you are referring to?

A. The Occupational Safety and Health Administration determines some. The American Council for Governmental Industrial Hygienists does. For the comfort level, ASHREA does.

Q. What specific health threshold levels will you be testifying about?

A. Levels for biological contaminants, carbon dioxide, carbon monoxide, volatile organic compounds, respiratory particulates, nicotine, relative humidity, ozone.

Q. Have you had a cigarette since we started

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF DADE)

I, DEBORAH MULLER a Notary Public in and for the State of Florida, do hereby certify that I reported the foregoing deposition of DR. YOLANDA JANCZEWSKI at the time and place hereinabove set forth; that the witness was first duly sworn by me; and that the foregoing pages numbered from 1 to 83, inclusive, constitute a true and correct transcription of my shorthand report of the deposition of said witness.

I FURTHER CERTIFY that I am neither attorney nor counsel for, nor related to nor employed by any of the parties connected with the action, nor financially interested in the action.

WITNESS MY HAND AND SEAL in the City of Miami, Dade County, Florida, this 27th day of May, 1997.

DEBORAH MULLER

KLEIN, BURY & ASSOCIATES, INC.

YOLANDA JANCZEWSKI

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